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United States
Department of
Agriculture

Forest Service

**Policy Analysis
Staff**

Washington, DC

FS-460

Analysis of an Emerging Timber Supply Disruption

Volume 9

Critique of Land Management Planning

Analysis of an Emerging Timber Supply Disruption

Volume 9

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USDA Forest Service
June 1990

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Preface

This report was prepared at the request of former Assistant Secretary for Natural Resources and Environment George S. Dunlop in a letter to the Chief of the Forest Service, dated April 27, 1989 (Appendix D). The letter addressed a national forest timber supply problem emerging from the onslaught of appeals and court cases on national forest plans and timber sales programs.

This report defines the problem and responds to four items the Assistant Secretary requested in his letter to the Chief:

- ***Analyze trends***—documentation of the problem in quantitative terms for the timber plan schedule, timber sales program targets, sales offerings, actual sales and harvest, and the backlog of sold but uncut timber by region for 1974 to 1989.

- ***Legislative review***—identification of legislation for forest planning, annual timber program targets, and other resource and environmental legislation that is involved in the apparent conflicts in legislative intent and is contributing to confounding the Forest Service's capability to execute those laws consistently and effectively.

- ***External intervention***—identification of the legislative direction most responsible for the external intervention in executing forest plans and legislative program targets.

- ***Assess impacts***—documentation of the direct costs and opportunity costs of responding to appeals and court cases, as well as impacts on prices, jobs, community stability, and general Government effectiveness.

The purpose of this report is to describe and analyze the problem of emerging timber supply disruptions. It is not a statement of Forest Service position or strategy, but does include some suggestions on how the timber supply problem may be addressed in the short and long terms.

Executive Summary

Former Assistant Secretary Dunlop of the Department of Agriculture directed the Chief of the Forest Service to identify the root causes associated with the potential disruption of the national timber supply. An overview of the analysis and recommendations follows. The recommendations overlap those developed as part of other recent efforts, such as the recent in-house NFMA task group. The analysis was conducted under the guidance of a steering group composed of John Fedkiw, Dave Hessel, and Mike Gippert.

Overview

Conflicts over Forest Service timber management activities are increasing to the point where the constant flow of timber products from national forests is being disrupted. Recent litigation in the Pacific Northwest and resulting timber sale injunctions related to the northern spotted owl are a case in point. There is potential for the disruptions to create social and economic problems in dependent communities.

When people are not successful in using our Government's system of checks and balances to cause change, they can often use them to force a stalemate or disorder. An impasse results when no project decision can be made that simultaneously satisfies all laws, regulations, higher order plans, and social and political imperatives.

Responding constructively to this challenge requires taking a broad and integrated approach on how public involvement and conflict are managed within the agency's planning and decisionmaking processes. Four different aspects of timber resource management highlight different parts of the problem:

- Timber sale preparation.
- Context of integrated resource management.
- Annual funding by Congress.
- Public opportunities for influencing agency decisions.

Timber sales take from 3 to 8 years to prepare, depending on the size of the timber program on a given district, size of the sale, and complexity of the site-specific situation. Timber management activities are integrated throughout preparation with other resource values, such as recreation, water quality, and wildlife. The standards for integration of other resource values are specified in the forest plan for each national forest.

The amount of timber to be offered along with the necessary funding is set by Congress during annual appropriations. The public has many opportunities for influencing both the agency's strategic and project decisions. The agency's administrative procedures provide for appeals of decisions. In addition, the public influences agency decisions through lawsuits and through political means.

The public is seizing many opportunities to influence agency decisions. Increased controversy has increased the cost of preparing timber sales by 25 to 33 percent. Because of the controversy, many sales are lost, and the agency has had to increase the amount of timber land in some stage of preparation by 40 to 60 percent.

Project decisions—in this case, timber sales—are controlled by several distinctly different processes—administrative, legal, and sociopolitical. The administrative process is a framework of laws and decisions involving all branches of Government, which operate together to set the stage for making project decisions.

In addition to being part of the administrative processes, legal processes also serve to test and change project decisions, and sociopolitical processes set priorities and allocate funds on an annual basis and provide a mechanism for redress for project decisions that are contested.

After studying the disruption of timber supply, it seems clear that there are no quick fixes. Any short-term efforts taken to respond to the growing problem must address the causes and not the symptoms to be effective. Short-term efforts to fix the symptoms or solutions that deprive the public of an opportunity to influence outcomes often lead to unpredictable disruptions in unexpected areas.

Appendix A shows the results of controversy, appeals, litigation, and changing market conditions on the Forest Service timber program. Information about timber harvest, timber offered, volume under contract, and volume that needs to be reworked is summarized for each national forest. Two conclusions can be drawn from the charts:

- Those forest product mills that depend on national forest timber have an average of 1.6 years of supply under contract. The supply ranges from a low of 6 months to a high of 3 years. This compares to a historical level of 2 to 3 years, which generally is considered necessary to sustain normal mill operations. Twenty forests have less than 1 year under contract, while 38 forests have less than 2 years under contract.

- Of the timber sales, 25 to 33 percent need to be reworked every year prior to sale. Improving NEPA documentation constitutes over 70 percent of the rework and changes in unit layout about 20 percent.

Preparation time and unit costs have increased dramatically recently. Current time and unit costs are more than 25 percent greater than average costs over

the last 5 years. New appeals and court decisions and changes in policy, regulation, and statute have a profound effect on the timber sales in the pipeline. Many environmental analyses need to be redone, and many project decisions need to be revisited. The forests' aggregate ability to meet sales targets set by Congress is impaired.

Recommendations

The underlying causes of the emerging timber supply disruption are complex. They cannot be easily remedied by a single management action but, instead, require a series of steps. The purpose of this section is to suggest several ideas that have the potential to aid in increasing the certainty of timber supply. Estimates of implementation time follow each of the following recommendations:

1. ***Reduce conflicts.*** Prevent or reduce conflicts by embodying the principles of thorough public involvement, multiparty conflict prevention, and mediation in all of our various planning and decisionmaking processes. Training, of course, is an essential part. (3 to 5 years)

2. ***Replenish the pipeline.*** Increase the stability of the timber supply and reduce stress on people by providing full funding or adjusting targets and by preparing additional volume to anticipate and compensate for attrition, thus preventing the robbing of out-year sale programs. (3 years)

3. ***Streamline the pipeline.*** Reduce the effects of conflict on the pipeline by improving the current system of pipeline management for timber sales on forests and districts. (1 year)

4. ***Provide for orderly change.*** Provide a grace period or "grandfather clauses" through records of decisions, regulation, or statute that will allow the pipeline to be refilled with new projects in compliance with new policy, regulation, or case law—without disrupting the flow of previously planned projects. (2 years)

5. ***Speed awareness of appeals and court decisions.*** Rapidly and reliably communicate significant appeals and court decisions that affect projects or processes to field managers who are preparing timber sales. (1 year)

6. ***Reduce the opportunity to reopen issues already decided.*** Change the appeals regulations to establish standards for review that sharply focus the allowable scope of appeals and to encourage conflict mediation through the greater use of appointed hearings officers or ombudsmen to meet face-to-face with appellants who seek resolution. The goals are to reduce the number of appeals, simplify dismissal of appeals when they are based on decisions made in higher order plans, and limit the number of appeals that are accepted. (1 year)

7. ***Increase the clarity and understanding of the NEPA/NFMA processes.*** Strengthen the planning and decisionmaking process by simplifying and clarifying process direction. Strengthen the ability of the field to

consistently produce high-quality NEPA documents. Related actions are also recommended in the Office of General Counsel letter of February 1990. (2 years for the process, 3 years for education)

Introduction

Issue Statement

Conflicts, disagreements, and appeals concerning resource management on our Nation's public lands are becoming more prevalent. Many land managers are finding it difficult to undertake any management activities without conflict. This dilemma is true not only for land managers, but seems to pervade many areas of our society. Americans are becoming more involved in decisions affecting themselves than at any other time in our history. Effective management and policy formulation increasingly requires managing and using conflict in a positive way to improve decisions and policies.

Conflicts, administrative appeals, and lawsuits are becoming commonplace in the planning and management of timber resources on the national forests. Between 1983 and 1988, the total number of appeals filed annually nationwide more than doubled, increasing from 584 to 1,298, according to a recent GAO report ("Information on the Forest Service Appeals System"—February 1989). Of the total appeals filed, 42 percent were related to either timber sales or national forest plans in 1983 and rose to 60 percent by 1988.

The reasons for conflict and administrative appeals have been many and varied. The appeals and lawsuits are a reflection of widely divergent opinions of what constitutes the mix of objectives and management that best meets the needs of the American people. The common denominator of the conflict is that there is an increasing public sensitivity about timber harvest levels and practices and an increasing interest in the disruption of timber management activities by members or representatives of special interest groups.

Although the historical planning and management of timber resources on national forests has never been without controversy (for example, the Bitterroot and Monongahela controversies, 1969–1972), the frequency of conflict now is a growing problem. The issue at hand is: How can land managers plan and manage the timber resource in a noncontroversial manner or in a way that resolves the conflict. This challenge, which exists at all levels of the agency (district, forest, regional, and national), emerges from the potential for conflicts to seriously disrupt the flow of timber and other products from the national forests. Recent litigation and timber sale injunctions related to the northern spotted owl are a case in point. Responding constructively to this challenge requires taking a broad and integrated approach on how public involvement and conflict is managed within the agency's planning and decisionmaking processes.

Timber Planning in the Forest Service

To understand the reasons for conflicts and appeals in timber planning on the national forests and how the agency can best respond, one needs to first take a look at how the Forest Service plans and manages the timber resource. There are four important components: (1) the actual preparation of the sale; (2) the integration of resource management objectives in the area where a timber sale is prepared; (3) the annual funding of the timber sale program by Congress; and (4) forums for the public to discuss and influence agency decisions.

Preparation of Timber Sales

The first perspective is that of the on-the-ground forester and activities on the forest. At this level, the timber to be sold is identified, transportation system needs and harvesting methods are planned, and contracts for sale are prepared. Two factors influencing the preparation of timber sales are natural resource capabilities and the projected demands on the land and its natural resources. Complementary and competing demands for resources are integrated with resource capabilities in the course of timber sale preparation. Timber sales are prepared under the direction of forest plans using the "Gate System," which is described in Forest Service Handbook 2409.18 (*Timber Sale Preparation Handbook*).

Gate 1 (first year) identifies the resource capabilities through the reconnaissance of resources, silvicultural exams, logging and transportation system analysis, and determination of economic feasibility. Projected resource demands and higher order direction are identified from regional guides, forest land and resource management plans, and yearly congressional appropriations. These plans and decisions collectively include assigned timber targets, assigned budgets, specific resource direction, and environmental considerations. Potential public issues also are identified at this point.

Gate 2 (second to fifth year, depending on complexity) involves sale area design. At this step, a site-specific environmental analysis is completed by an interdisciplinary team. Successful completion results in the line officer signing a decision document. The analysis and decision strive to identify and select the optimum integration of various competing demands with resource capabilities. This is the step where public involvement is actively sought and where the environmental analysis, associated documentation, and decision can be challenged through the Forest Service administrative appeals process.

Gate 3 (third to eighth year, depending on complexity) results in the offer of timber for sale. It includes a timber sale report, field activities of sale, and preparation of the road layout, appraisal, and contract. The Gates that follow (4, 5, and 6) include offering and advertisement, bid opening and auction, and final sale award, respectively—all happening during the last year.

Preparing a timber sale for harvest normally takes 3 to 8 years, depending on the size of the sale, its location and complexity, rights-of-way, and transportation system design. This time frame does not account for time to respond to administrative appeals or lawsuits, which add an estimated 1 to 2 years to the process.

Timber Sales in the Context of Integrated Resource Management

Congress, through a number of acts, and through two acts in particular—the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 and its subsequent amendment by the National Forest Management Act (NFMA) of 1976—has set forth a process and given a charge to the Forest Service as it makes plans for managing all national forests so that they "will best meet the needs of the American people" (Multiple Use–Sustained Yield Act of 1960).

Through the National Environmental Policy Act (NEPA) of 1969, Congress also has given the public a major role in helping the Forest Service determine what best meets the needs of the American people. This act gives the public the opportunity to review and comment on environmental impact statements and environmental assessments for regional guides, forest plans, or individual projects (such as timber sales). Congress has given decisionmaking authority to the agency and also reserved decisionmaking to itself through annual appropriations.

RPA and NFMA provide a comprehensive framework for strategic planning, decisionmaking, and management of all natural resources within the national forests. Strategic planning to determine the highest and most beneficial use of national forests and their resources is conducted at the following three levels:

- National—RPA assessments and programs.
- Regional—regional guides.
- Local—forest land and resource management plans.

RPA requires the Forest Service to prepare an RPA Assessment every 10 years and an RPA Program every 5 years. The RPA Assessment displays the long-term supply and anticipated demand for timber from the National Forest System and from State and private lands in the United States. The RPA Program provides national direction on the role of the national forests in responding to anticipated timber demand, the Forest Service' response to timber-related issues, and the volume of timber the public can anticipate being offered from the national forests.

NFMA and its implementing regulations and agency policies require the Forest Service to prepare both regional guides and land and resource management plans. The regional guides provide direction on how timber planning will be conducted (for example, silvicultural guidelines, optimal harvest methods, and management area prescription guidelines). Final approved forest plans provide specific direction on timber planning, including suitable acres, allowable sale quantity, harvesting practices, and silvicultural standards and guidelines that ensure that environmental goals and standards will be met for implementing the plan. Forest plans represent the Forest Service's assessment of the optimum integration of competing resource demands with resource capabilities. The forest plans also are the starting point for each national forest's budget and programming process, which eventually becomes a part of the Forest Service program and budget proposal to the Department of Agriculture.

RPA and NFMA are significant pieces of legislation. Before these laws were passed, Forest Service timber planners operated under little statutory or regulatory direction. RPA and NFMA, along with their implementing regulations, require both a "systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences" (RPA, Sec. 6(b)) and public participation in planning. NFMA provides specific direction on timberland suitability requirements, harvest levels, and harvest practices. Many of the timber management requirements in NFMA are aimed at protecting and providing for other resources.

Other statutes and regulations also directly apply to the planning, decision-making and preparation of timber sales. Figure 1 shows the basic framework for Forest Service activities, beginning with legislation and culminating in projects. A growing body of case law directly affects timber sales as well.

Annual Funding of the Timber Sale Program

The timber sale program is a part of the larger program development and budgeting process of the Forest Service, which, in turn, is part of the President's budget and the congressional appropriations process. Strategic decisions determined through long-range planning (RPA, regional guides, and forest plans) frame the agency's preferred plan for managing all the various renewable resources of the national forests in a way that best meets the needs of the American people. These preferred plans serve as the starting point for timber sale programming and budgeting.

Figure 2 shows how programs derived from the agency's strategic and tactical planning are integrated with the President's programs, priorities, and policies. Finally, Congress, responding in part to the agency's plans, in part to the President's agenda, and in part to its own priorities, forges an annual appropriation that includes money for timber planning activities, specified target levels for timber volume to be offered, and, at times, other special language for the timber sale program.

Congressional appropriations not only include funding for the agency's timber sale program, but also set a specific timber sale offering target from the national forests. In the past decade, the national timber harvest level directed by Congress has been between 11 and 12 billion board feet. In addition, "special language" is often attached to the appropriations bill, giving direction for managing the national forests in response to current political issues. Neither the special language, the funding, nor the targets resulting from appropriations are explicitly tied to the agency's strategic plans. The plans and the proposed programs and budgets emerging from the plans provide long- and short-term information for Congress to weigh when deciding on annual management targets and funding.

The time it typically takes to prepare timber for sale requires the building of a "pipeline" from 3 to 8 years long based on strategic plans and future forecasts of congressional action and presidential agendas. Appendix A graphically summarizes statistics pertaining to timber targets, sale offerings, harvest levels, and program funding.

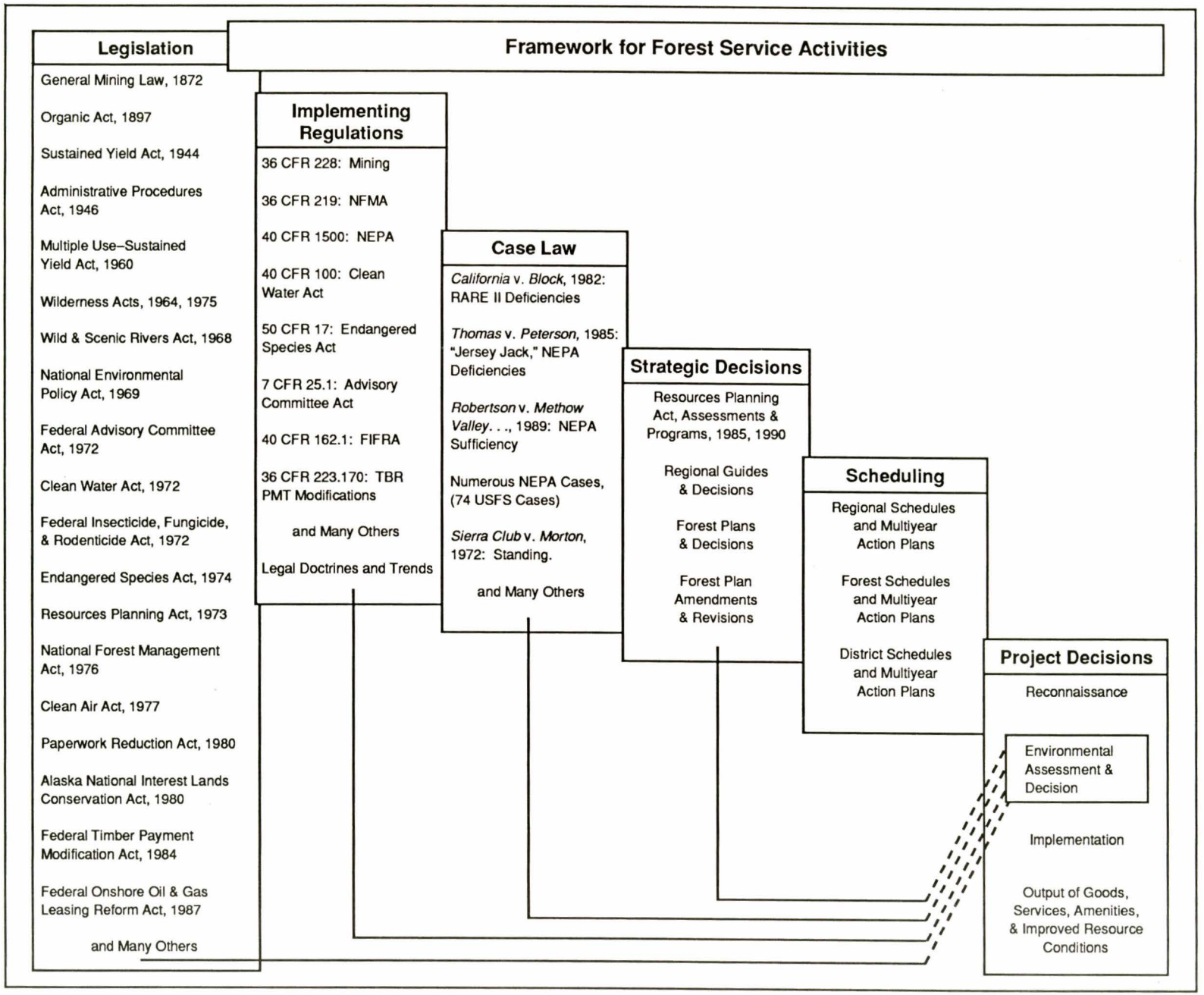

Framework for Forest Service Activities
Legislation
General Mining Law, 1872
Organic Act, 1897
Sustained Yield Act, 1944
Administrative Procedures Act, 1946
Multiple Use–Sustained Yield Act, 1960
Wilderness Acts, 1964, 1975
Wild & Scenic Rivers Act, 1968
National Environmental Policy Act, 1969
Federal Advisory Committee Act, 1972
Clean Water Act, 1972
Federal Insecticide, Fungicide, & Rodenticide Act, 1972
Endangered Species Act, 1974
Resources Planning Act, 1973
National Forest Management Act, 1976
Clean Air Act, 1977
Paperwork Reduction Act, 1980
Alaska National Interest Lands Conservation Act, 1980
Federal Timber Payment Modification Act, 1984
Federal Onshore Oil & Gas Leasing Reform Act, 1987
and Many Others
Implementing Regulations
36 CFR 228: Mining
36 CFR 219: NFMA
40 CFR 1500: NEPA
40 CFR 100: Clean Water Act
50 CFR 17: Endangered Species Act
7 CFR 25.1: Advisory Committee Act
40 CFR 162.1: FIFRA
36 CFR 223.170: TBR PMT Modifications
and Many Others
Legal Doctrines and Trends
Case Law
California v. Block, 1982: RARE II Deficiencies
Thomas v. Peterson, 1985: "Jersey Jack," NEPA Deficiencies
Robertson v. Methow Valley. . ., 1989: NEPA Sufficiency
Numerous NEPA Cases, (74 USFS Cases)
Sierra Club v. Morton, 1972: Standing.
and Many Others
Strategic Decisions
Resources Planning Act, Assessments & Programs, 1985, 1990
Regional Guides & Decisions
Forest Plans & Decisions
Forest Plan Amendments & Revisions
Scheduling
Regional Schedules and Multiyear Action Plans
Forest Schedules and Multiyear Action Plans
District Schedules and Multiyear Action Plans
Project Decisions
Reconnaissance
Environmental Assessment & Decision
Implementation
Output of Goods, Services, Amenities, & Improved Resource Conditions

Figure 1. Framework for Forest Service Activities

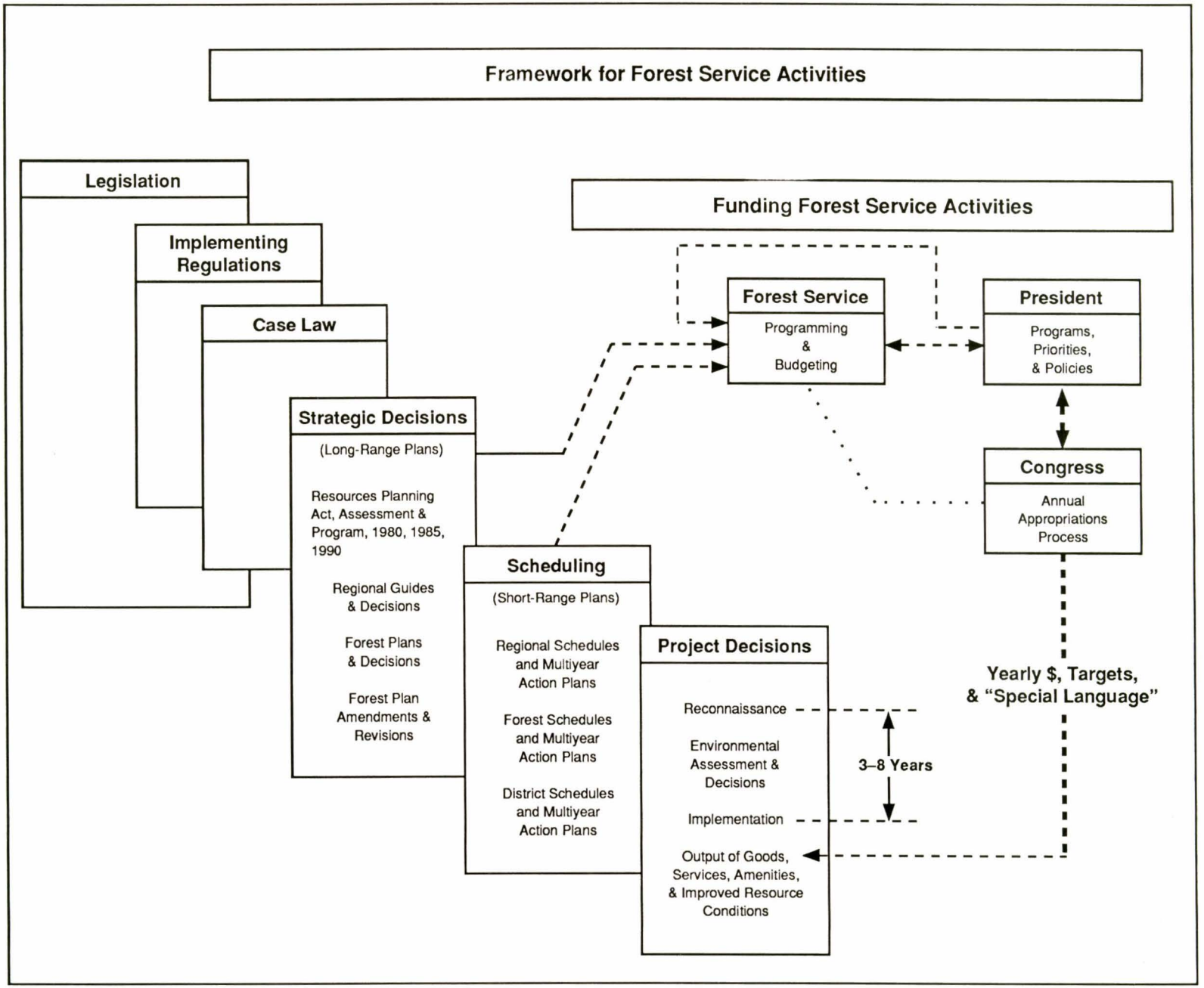


Figure 2. Funding Forest Service Activities

Timber Sales and Public Forums

In our democratic society, many opportunities exist for citizens, including those with minority views, to shape public policy and agency actions. Accordingly, those whose preferences and values regarding national forests differ markedly from public policy and agency actions have ample opportunity for adjusting the mix of goods, services, and amenities coming from the national forests. Sometimes holders of minority views are successful in disrupting the flow of goods and services in the hopes of obtaining a more favorable mix. Sometimes the disruption itself is the desired outcome of intervening interest groups or individuals.

NEPA, RPA, and NFMA provide opportunities for a wide range of individuals and organizations with differing values, preferences and viewpoints to become involved in Forest Service planning, decisionmaking, and project implementation. The purpose is to solicit others' views and ideas, integrate them into agency planning and decisions, and thereby reach more satisfactory outcomes that serve as wide a range of interests as possible. While such public involvement often leads to decisions that better meet the needs of the American people, it is recognized that, at times, such citizen involvement can result in more polarity, more deeply held convictions on issues, and a stalemate in resolving the issues. Stalemates, in turn, often lead to the inability of the agency to fulfill the annual program targets established by Congress.

Those who have a strongly held vision about what best meets the needs of the American people, along with their demands for a corresponding mix of goods, services, and amenities, have a variety of means for influencing outcomes. In terms of timber planning, individuals and organizations have an opportunity through NEPA to exercise their influence in RPA planning (RPA Program), NFMA planning (regional guides and forest plans), and timber sale preparation planning (related environmental documents).

Explicit involvement is thus provided for both individuals and special interest groups through the planning and decisionmaking processes at both the strategic and project levels. Many decisions can be appealed and litigated. In addition, political influence can be exercised on a case-by-case basis or through special language in the appropriations process. Figure 3 shows public influence being exerted at most points in the framework for Forest Service activities. Figure 3 also shows the increasing numbers of appeals and lawsuits.

Timber sales from the national forests are increasingly controversial. Special interest groups and individuals on a variety of fronts are organizing to affect how timber sale planning is done. Through effective organization and strategy, various groups and individuals have learned how to intervene in agency planning and decisionmaking.

Individuals and groups are involved in environmental analyses, administrative appeals of timber projects and forest plans, lawsuits, lobbying Congressmen, support and preparation of potential new legislation, and cooperation with Forest Service officials. While this increased activity by various special interest groups and individuals has caused timber planning to become more complex, less predictable, and more time-consuming, it can be argued that the

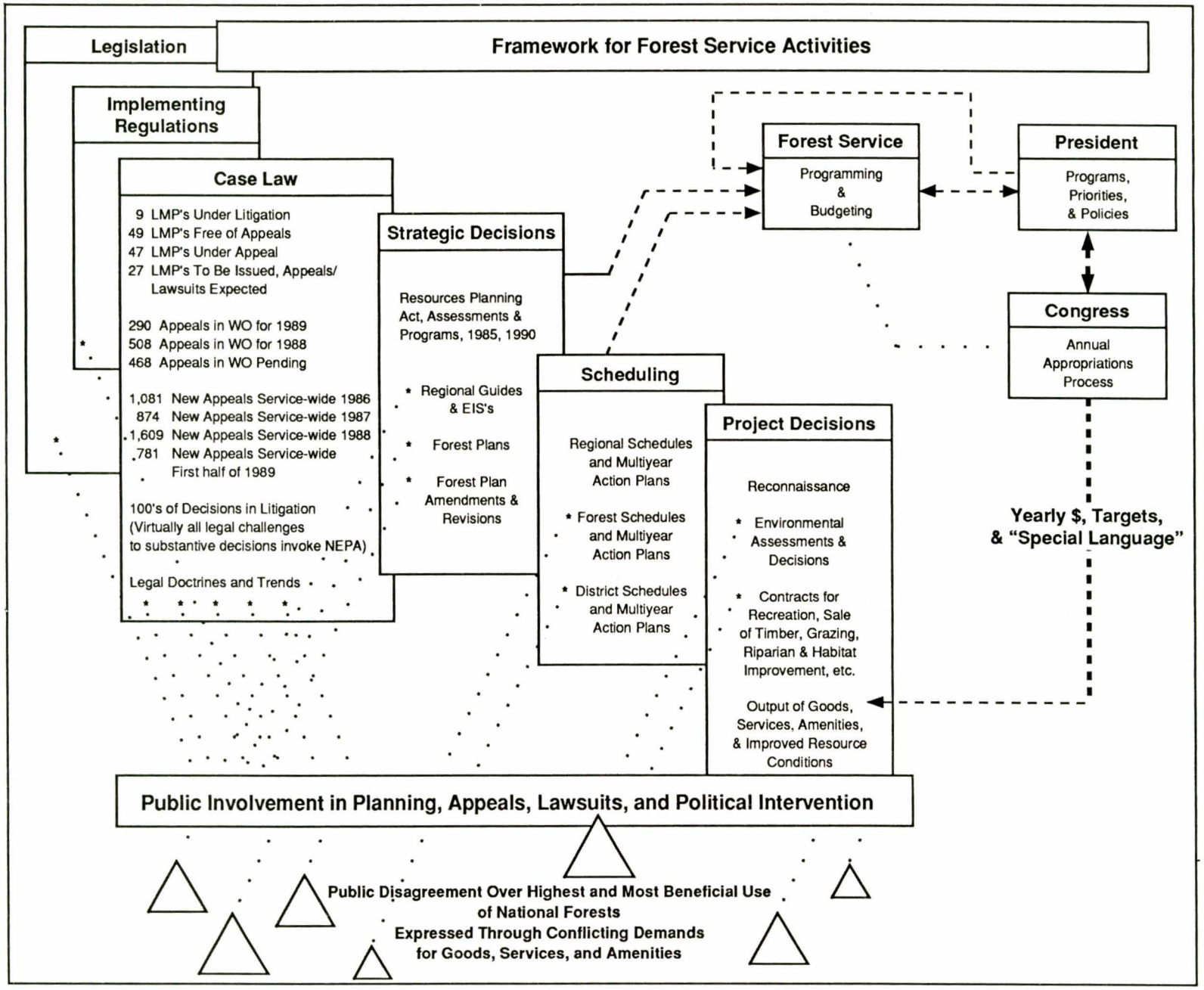

Legislation
Framework for Forest Service Activities
Implementing Regulations
Case Law
9 LMP's Under Litigation
49 LMP's Free of Appeals
47 LMP's Under Appeal
27 LMP's To Be Issued, Appeals/ Lawsuits Expected
290 Appeals in WO for 1989
508 Appeals in WO for 1988
468 Appeals in WO Pending
1,081 New Appeals Service-wide 1986
874 New Appeals Service-wide 1987
1,609 New Appeals Service-wide 1988
781 New Appeals Service-wide First half of 1989
100's of Decisions in Litigation (Virtually all legal challenges to substantive decisions invoke NEPA)
Legal Doctrines and Trends
Strategic Decisions
Resources Planning Act, Assessments & Programs, 1985, 1990
* Regional Guides & EIS's
* Forest Plans
* Forest Plan Amendments & Revisions
Scheduling
Regional Schedules and Multiyear Action Plans
* Forest Schedules and Multiyear Action Plans
* District Schedules and Multiyear Action Plans
Project Decisions
Reconnaissance
* Environmental Assessments & Decisions
* Contracts for Recreation, Sale of Timber, Grazing, Riparian & Habitat Improvement, etc.
Output of Goods, Services, Amenities, & Improved Resource Conditions
Forest Service
Programming & Budgeting
President
Programs, Priorities, & Policies
Congress
Annual Appropriations Process
Yearly $, Targets, & "Special Language"
Public Involvement in Planning, Appeals, Lawsuits, and Political Intervention
Public Disagreement Over Highest and Most Beneficial Use of National Forests Expressed Through Conflicting Demands for Goods, Services, and Amenities

Figure 3. Public Involvement in Planning, Appeals, Lawsuits, and Political Intervention

results are one more iteration of a process that is striving to "best meet the needs of the American people," as referred to in the Multiple Use–Sustained Yield Act.

Problem Analysis and Response

The combination of goods, services, and amenities that come from national forests has its roots in statutes and regulations, is tempered by public involvement and judicial review, is shaped by strategic planning, is produced by project plans, and is funded and adjusted by Congress through annual appropriations (Figure 3). The general mix of goods, services, and amenities that flow from national forests represents our society's collective determination of what best meets the needs of the American people.

Changes in this flow are frequently induced by people with minority viewpoints who exert influence to alter the mix. Sometimes the influence is exerted by disrupting the flow of goods and services in an effort to focus on and bring attention to a particular issue. Sometimes, the disruption becomes an end in itself, rather than a means for altering the mix. If large-scale disruptions occur, the flow of goods and services is held hostage while particular issues are worked out in the courts or in Congress.

Planning of the timber program is part of a complex system of integrated multiple-use planning. The planning is comprehensive both with respect to consideration of natural resource capabilities and demands for natural resources. Timber management planning involves—

- Identifying land and resource capabilities.
- Identifying the complementary and competing land and resource demands.
- Integrating the complementary and competing demands with the resource capabilities.
- Making decisions about goods and services in the public interest.
- Funding programs.
- Implementing projects.
- Resolving public conflicts at every point in the process, perhaps involving administrative appeals and lawsuits.

When public disagreement from either individuals or interest groups occurs over timber management activities, it is related to specific management decisions. The basis of the disagreement is usually fundamental differences in values and preferences about what is in the best public interest; it is often expressed in the form of injunctions when lawsuits are involved.

Given the complex nature of the system of which the timber program is a part, it is important to identify the problems before corrective actions can be taken. It is equally important to understand the causes and the effects of problems. Corrective actions that fix the effects but ignore basic causes actually create other, often unexpected, effects.

NFMA instituted an orderly process of land and resource management planning designed to guide the Forest Service as it strives to manage all the resources of the national forests to best meet the needs of the American people. As a result, a large number of decisions have been and are being made with regard to the flow of goods, services, and amenities from the forests. The increase in conflicts can be explained by both the increase in the number of decisions and the accessibility that individuals and various interest groups have to the planning and decisionmaking process. The conflict is often intensified as individuals and groups challenge Forest Service decisions through the agency's administrative appeals process, the press, demonstrations, the court system, and legislative arenas.

History of Timber Planning Conflicts

Conflicts and disagreements about timber planning on the national forests make up part of the rich history of timber management in the Forest Service. Controversy over how much to cut and the timber harvest practices is not new. The difference between the past and the present with regard to timber management conflict, however, is that the conflict is becoming less isolated and more commonplace and disruptive. Although the severity of conflict varies from one national forest to another, nearly all forests face administrative appeals, and many are involved in lawsuits over timber planning today, as shown in Figure 3.

The Participants and Nature of the Conflict

The disagreement is generally expressed by one or more individuals, interest groups, or coalition of groups who represent the views of a larger group of people. Rarely does the disagreement involve a large number of individual citizens in a locality or region.

The individual participants in a conflict are from wide-ranging backgrounds. They may be prominent lawyers or business people, opinion leaders for a specific cause, or persons hired to represent a common group of people with similar views. Often issues raised by individuals are narrower in scope and tied to a specific need or preference in national forest management.

The characteristics of intervening groups, organizations, or coalitions can be equally variable. There are many appeals represented by local groups that are not a part of any national organization. The issues generally raised are local, site-specific issues. For example, there is a group in New Mexico, "Save the Jemez Mountains," interested in the protection of the Jemez Mountains. Another example is the "Southeast Alaska Seiners Association," a group interested in protecting the riparian areas of southeast Alaska. There are also local groups who represent major national groups in appeals—for example, the local chapters of The Wilderness Society or Sierra Club. These local groups raise issues on individual forests that are often broad and national in scope.

Many appeals are represented by the larger national groups—for example, the National Forest Products Association, the Natural Resources Defense Council, and The Wilderness Society. The national groups usually base their appeals on the broader issues and often involve more complex and lengthy administrative appeals. Finally, there is the complex of local and/or national groups that form coalitions to exert greater influence over decisions that may involve many issues.

The agenda of national organizations, however, may not always be the same as their local counterparts. National organizations may be willing to "sacrifice" local, site-specific concerns to reach their goals on broader issues. Local groups are generally more concerned with solutions to site-specific issues.

Most appeals are filed by advocates of special interests. Appeals filed by individual citizens are much fewer in number than those filed by organized special interest groups. A sample of the kinds of lawsuits pending is as follows:

- *Citizens for Environmental Quality* v. *Lyng*, Rio Grande National Forest, Land and Resource Management Plan.

- *Nevada Land Action Association et al.* v. *United States*, Humboldt and Toiyabe National Forests, Land and Resource Management Plan. Consolidation of earlier administrative appeals.

- *Resources Limited, Inc., et al.* v. *Robertson*, Flathead National Forest, Land and Resource Management Plan.

- *Seattle Audubon Society et. al.* v. *Robertson*, Region 6 Regional Guide, Spotted Owl Habitat Amendment. Consolidated with Washington Contract Loggers Association.

- *Northwest Forest Resource Council* v. *Robertson*, Region 6 Regional Guide, Spotted Owl Habitat Amendment. Consolidated with Western Washington Commercial Forest Action.

As stated earlier, the nature of the conflict is over the differences in values and preferences held between individuals or interest groups and the Forest Service concerning what management or use of national forests best meets the needs of the American people. The disagreement usually involves a Forest Service decision that is a carefully considered compromise solution to all issues emerging from the expressed preferences or desires of various participants rather than a consensus solution. Because the Forest Service decision must respond to all the issues, it often suboptimizes the preferences of some or all interest groups—in the absence of a consensus among all groups. The disagreement becomes a conflict and a problem when one or more individuals or interest groups pursue their own interests separately through litigation or political means.

The Time, Place, and Frequency of Conflict

Conflicts over site-specific timber resources planning have been primarily centered at the district and forest levels. As forest managers prepare timber sales using the Gate System, conflict usually arises during Gate 2, when a decision notice is issued. This is the stage at which the environmental analysis is completed after public involvement, and a decision is made by the responsible line officer to proceed with a timber sale. Often, the decisions are appealed through the Forest Service administrative appeals process. Appeals at this level have always existed, but have become much more prevalent in the last decade.

Conflicts that are not or cannot be resolved at the timber sale project level in Gate 2 resurface as conflicts in other projects. They also reappear as conflicts in other forums. Such continuing unresolved conflicts become conflicts in search of an adequate forum (such as forest plans, forest plan amendments, courts, or Congress). For example, the timber harvesting conflicts on the Monongahela and Bitterroot National Forests during the early 1970's not only involved the judicial system and action, but also caused the precipitation of new legislation, namely RPA and NFMA. More recent examples include the litigation involving the northern spotted owl. Additionally, there are hundreds of administrative appeals of timber sales for which the impacts are yet to be determined.

Timber planning conflicts also arise during the forest planning process. This process results in the development of a land and resource management plan with an accompanying environmental impact statement and record of decision. These documents are meant to implement NFMA, which requires developing individual forest land and resource management plans for a 10- to 15-year planning cycle. These plans provide long-term direction and guidelines for the management of National Forest System lands. The plans do not cite specific project decisions to implement plans or to respond to annual congressional appropriations and direction.

The record of decision is appealed for a variety of reasons, many of which involve various aspects of timber planning. Again, if the conflict is not resolved through the appeals process, a lawsuit is often filed and the conflict is taken to court, where the forest plan is litigated. Although the Forest Service prepared multiple-use plans before NFMA, conflicts usually did not occur at this level of planning before the passage of the act.

Timber planning conflicts occur less frequently at regional levels with regard to specific issues. For example, some regions have completed regional environmental impact statements and records of decision for vegetation management practices (Regions 6 and 8), which also have been appealed. Other examples are the spotted owl decision in Region 6 and the red-cockaded woodpecker decision in Region 8. Except for the Natural Resource Defense Council's challenging the first RPA Program in court, the Forest Service has not experienced any appeals over the national RPA Program. However, we cannot rule out appeals in the future. Again, conflicts not resolved at the forest or regional level to the satisfaction of the parties involved resurface as conflicts at

the project level and also as conflicts in other forums, such as congressional hearings.

The ability of the public to intervene in agency planning and decisionmaking processes is provided through NEPA, RPA, NFMA, and the Administrative Procedures Act. These laws and their implementing regulations provide for public participation, which allows individuals and special interest groups to be actively involved in agency planning and decisionmaking. Additionally, there are often provisions for intervening after a final decision has been made—for example, the NFMA implementing regulations, 36 CFR 219.10(d), or the Forest Service appeal regulations, 36 CFR 217.

In addition, Congress has shown a willingness to respond to various individuals and interest groups and has been a factor in the higher frequency of timber sale disagreements and appeals. Interested individuals and organizations *can and do* influence agency planning and decisionmaking through administrative appeals, the courts, and legislative arenas. While there is an end to the job of timber sale planning, there is no clear and final end to conflicts and intervention by individual citizens and special interest groups.

Difficulties at the Project Level

A difficult aspect of planning timber sales in the midst of current conflicts is that as adaptations are made in response to today's conflicts, it is difficult to make appropriate changes to all the timber sales in the pipeline. Because the pipeline is large and because preparing timber sales is a massive program, there are often delays either in adaptation or in the sale of timber.

Timber sales usually require 3 to 8 years from conception to sale. Most timber sales in 1989, for example, were conceived between 1981 and 1986. The planning assumptions, regulations, controversies, strategic decisions, tactical schedules, and operating guidelines of 1981 to 1986 do not usually fit those adaptations emerging from today's conflicts.

Each change that affects the timber program made by legislation, regulation, case law, strategic decisions, tactical plans, policies, and operating guidelines can affect timber sales in the pipeline (Figure 1). Many times, those changes are accommodated by deferring sales and moving others ahead. However, when the pipeline has fewer and fewer timber sales, the flexibility to accommodate such changes while meeting timber targets becomes more difficult.

Timber sales used to be characterized as having a certain "shelf life"—that is sales could be stored "on the shelf" for a certain period of time. However, changes in the framework for Forest Service activities can render the sale obsolete and in need of refurbishing to meet new standards. Timber sales today often have a negative "shelf life"—that is, the standards have changed faster than the length of time it takes to prepare a sale. This sometimes results in the agency's defending a sale program that includes sales that may not fully meet today's standards or may not meet targets, or both.

A brief case study, titled "Selling the Opal Creek Timber Sale," is provided as Appendix C. This is one example of the kind of difficulty Forest Service managers face in preparing timber sales.

Reasons for Conflict and Appeals

The reasons for timber management conflicts are quite varied, whether the conflict arises at the project level or at higher levels in forest plans and regional environmental impact statements. Appellants often do not provide a clear separation of reasons for appeals or intervention in terms of policy, value differences, management methods, or technical procedural shortfalls. The cited reasons for appeals at all levels are often built around allegations of insufficiency of NEPA compliance, in spite of the fact that much of the underlying disagreement may involve differences in values concerning timber harvest activities.

The stated reasons for project level appeals can fall into several different categories. Some reasons are *policy related* and involve questions of what an agency should be doing. Appellants often claim that a law or regulation was violated (for example, NFMA, NEPA, and the Endangered Species Act) in some specific way. Such appeals usually involve greater differences in values and preferences about the highest and most beneficial use of the national forests.

Policy-related issues are thus more difficult for the Forest Service to resolve because they may involve legislative changes. These issues are not often resolved through a Forest Service action. Most of the time, there is little prospect for resolving the underlying conflict when it involves policy-related issues. Disruption of programs is sometimes the underlying motive for appeals. In these cases, the stated reasons are merely the best available vehicle to stop a particular timber sale or project.

An interesting aspect of policy-related issues is possible or perceived inconsistencies among the goals of congressional appropriations, the legislation affecting timber planning, and the legislation for other resources. Further study of this aspect would provide insight into the causes for such inconsistency and provide opportunities for resolution. For example, are the goals of some of the special-use legislation (the Wilderness Acts, the Endangered Species Act, or the Wild and Scenic Rivers Act) incompatible with the goals of other resources within the context of multiple-use management?

In many other appeals, the reasons may relate to a *management action*—that is, how management actions are implemented on the ground to achieve a particular goal or set of goals of the forest plan. An appellant may claim, for example, that clearcutting or species conversion is inadequately justified for a specific area. For higher level forest plans the reasons may be broader in scope, such as: clearcutting is not the optimum method; or standards and guidelines for specific management areas, or management practices, are not adequate. In another example, appellants may contend that the projects are not in compliance with forest plan standards and guidelines, or the combined

analysis of both the timber sale and forest plan environmental documents is still inadequate to render a proper resource decision.

Finally, there are a number of appeals that deal with *technical data and processes*. Claims are made that a specific process in the analysis was found to be inadequate or deficient, such as: cumulative impacts are not properly assessed; economic analysis is found to be incomplete or to have deficient data; the timber program or sale is below cost; reasonable alternatives have not been considered; or the level of technical data and facts about resource impacts is inadequate. At higher decision levels, the issues may include adequacy of the analysis for determining timber harvest levels, cost-efficiency analysis for determining suitable timber base, or adequacy of the range of alternatives.

The stated reasons for technical or process appeals can be addressed by the agency through technical or process changes or explanations. However, almost all process- and technical-oriented appeals and lawsuits have an underlying basis in conflict with either policy or management actions, and many seek to block the decision just on technicalities. The reason for appeals on data or process is that changes would presumably lead to better decisions or actions—that is, more favorable policies or actions from the perspective of the appellant.

People have the right to challenge the policies, action, and analysis of the agency that, by Federal legislation, is given the authority to determine how to manage the national forests. These challenges create enormous complications and uncertainties as the agency strives to adapt to change while carrying out the detailed direction of congressional appropriations and lawmaking.

Effects of Conflicts

As conflict has become more commonplace in national forest timber planning and administrative appeals have increased, questions have arisen about the effects of these conflicts and appeals. Concern was expressed by former Assistant Secretary George Dunlop in his April 27 letter to the Chief of the Forest Service (in Appendix D). His concerns included—

- Adequacy of timber supply to the marketplace.
- Local and/or regional economic impacts.
- Forest Service administrative impacts.
- Changes in legislation.

An important impact to consider is whether appeals and lawsuits are disrupting or hindering the agency's ability to prepare timber sales for the marketplace. A review of timber targets, offerings, and harvest levels (Appendix A) indicates that from a national perspective, the appeals have not created any serious disruptions to date—with the exception of the current timber supply reductions related to the spotted owl lawsuits and injunctions.

A national comparison of timber harvested, offered, and under contract (Appendix B) indicates that there is much less timber under contract than in recent years. Between 1985 and 1988, much of the difference can be explained by the 1986 timber "buyback" and strong timber market conditions. Subtracting the volume returned to the Government through the provisions of the buyback legislation, the decrease in timber volume under contract is primarily attributed to a strong timber market, where the timber harvested exceeds the timber offered for sale.

To date, the increase in administrative appeals has caused only a minor decrease in timber offered for sale and timber volume under contract. In a recent GAO report (February 1989), timber sales delayed as a result of appeals were examined in Regions 1 and 6. The report states that about 6 percent of the timber volume in Regions 1 and 6 was appealed, but that only 1 percent of the timber volume was delayed. Forest plan appeals did not delay any timber volume.

If the current trend of increasing appeals continues unchecked, however, the agency may experience future difficulties in meeting nationally legislated timber directives. Consider the impact that the spotted owl situation is having on the Region 6 timber program. At one point, 168 timber sales were halted, involving over 2 billion board feet of timber. Consider that on some national forests, timber planning has been so controversial that the present level of timber sales under contract is the lowest it has been for 3 decades.

We seem to be approaching a time when intervention in timber sale planning and decisionmaking is beginning to significantly affect actual timber sale and harvest levels on an increasing number of forests. On some national forests, only a 6-month supply of timber exists under contract, compared with the average supply level, which usually includes about 2 to 3 years' supply of sold but uncut timber. Consider that on some national forests, forest supervisors are not preparing timber sales in sensitive areas (for example, roadless areas and areas adjacent to wilderness or potential wilderness) to avoid timber sale delays, stoppage, or disruption because of the high probability of appeals. There are limits on how long sensitive areas can be avoided while maintaining the current level of timber volume offered for sale.

Reductions in timber volume under contract because of timber sale delays also could result in local mills having difficulty managing their operations. For example, limited volume under contract, which currently is highly localized, could cause mills to lay off employees, work fewer shifts, and experience difficulty in financing operations, because contract volume is often used as collateral to secure operating funds. Additionally, if timber becomes more scarce, prices and bid premiums may rise, making it more difficult for small operators to compete. If these actions occur, localized regional economic impacts will occur, although it is too early to assess such impacts in quantitative terms.

The cost of appeals to the agency has been analyzed only in a generalized way. In considering the direct costs of appeals, an increasing proportion of the work force is dedicating more time responding to appeals. Given that the agency work force has dropped significantly since 1980 (49,000 full-time employees in 1980 and only 38,000 full-time employees in 1988—a reduction of 21 percent) and that the work load has remained the same or increased, the appeals work load is making it more difficult to conduct resource management activities. Thus, there are costs of appeals to the agency, to local communities, and to the general public. However, further analysis must be done before a clear picture can be drawn.

Considering the broader perspective, there is also the possibility that the rise in appeals and conflict over timber planning may result in additional legislation. As stated earlier, timber sales controversies on the Bitterroot and Monongahela National Forests directly precipitated RPA and NFMA—the most significant legislative direction on timber planning since the 1897 Organic Act. In the recent past, some conflicts of administrative appeals have resulted in lawsuits. These lawsuits have resulted in new case law (Figure 3). The question is whether the growing number of appeals related to timber activities will result in legislative changes that will affect Forest Service timber planning activities. A study of the dynamics leading to legislation affecting timber planning over the past 15 years may provide some insight for addressing this question.

Responding to the Conflict

In responding to conflict and appeals, two perspectives need to be considered. The first perspective relates to how the agency is responding to the appeals in the short term, within the framework identified in Figure 1. The second perspective focuses on how the agency can respond more effectively to the underlying issues in the long term, in the sense that long-term responses may lead to greater acceptability of timber management in the overall context of multiple-use resource management and reduced intervention.

There has been an array of direct and indirect short-term responses by the Forest Service to resolve conflicts and reduce the resultant appeals work load. The responses have included both procedural and analytical activities. Those short-term responses that have a direct affect on reducing the number of appeals include—

- **Forest plan appeals decisions.** The Chief is preparing final decision letters to resolve forest plan appeals. Thus far, very few of these appeals have been litigated, which indicates a successful resolution process. As of August 7, 1989, 825 forest plan appeals have been filed, and 515 of these have been decided, of which 7 are being litigated.

- **Timber sale appeals decisions.** The Chief, regional foresters, and forest supervisors are preparing final decision letters to resolve timber sale appeals. Again, few of these appeals are being litigated.

- **Conflict resolution through effective citizen participation.** Numerous agency efforts strive to constructively address conflict at all levels of the organization. Efforts include collaboration, negotiation, mediation, consensus-building, negotiated rulemaking, and various cooperative ventures. The results of these efforts will be increased organizational knowledge in addressing conflicts constructively and in actually resolving many particular conflicts. Examples include Region 3's negotiating forest plan appeals settlements, Region 6's resolving a major herbicide lawsuit out of court through the active involvement of the plaintiffs in the environmental impact statement development and mediated settlement, and the "bridge building" with local citizens on many ranger districts throughout the Forest Service.

Additionally, the agency is undertaking other activities in the short term that will indirectly influence the number of appeals in the near future, including—

- **National NEPA Task Force and workshops.** The inadequacy of the environmental documents is a primary reason stated in many appeals. In response, the NEPA Task Force was established to improve environmental documents and analysis to make agency decisions and actions more defensible. To help reduce the number of appeals and to ease the processing of appeals, our Environmental Coordination staff is conducting NEPA workshops around the country. The workshops are meant to review NEPA documentation requirements and assist forest managers and technical specialists in preparing NEPA documents. Every forest supervisor has been required to attend one of these workshops.

- **Revision of appeals regulations.** The revised appeals regulations streamline appeals by providing for more timely resolution, disposition, and project implementation.

- **Timber Sale Program Information Reporting System (TSPIRS).** TSPIRS has been implemented to assist the agency in measuring the cost efficiency and effectiveness of a forest's timber sale program. Below-cost timber sales have been a major reason stated for timber sale appeals. TSPIRS will aid in addressing this issue by defining criteria for measuring cost efficiency, collecting data about the sale program, and affording opportunities for cost management.

- **Forest plan implementation regulations.** Implementing forest plans is a challenge for managers and has been a source of conflict with a wide range of individuals and interest groups. The Chief is currently revising forest plan implementation regulations (36 CFR 219.10(e)) to better define and clarify how forest plans should be implemented. This should help frame how project-level decisions relate to the forest plan. A clearer connection between the forest and project plans may reduce project-level appeals.

- **Forest Service management review system.** The Forest Service management review system provides for higher organizational levels to monitor and evaluate performance of various programs. Timber management

program reviews at various levels of the organization (district, forest, and region) identify problems and find ways to reduce timber appeals, respond to local issues, reduce program costs, and provide suggestions to improve management effectiveness.

- **Spotted Owl Task Force.** The Chief convened a task force after the final spotted owl environmental impact statement was published and after the administrative appeals and lawsuits were filed. The task force will analyze the current problems associated with the owl and find ways to reduce or mitigate the impacts on the management of other resources. This includes how to meet the needs of the owl and at the same time continue to harvest timber in the Pacific Northwest and California.

- **Old-growth working group.** The Chief has convened a working group, which has representation from all regions, to analyze current problems associated with old growth. The objectives include determining old-growth acreages and distribution and developing a national generic definition for old growth. The work from this group will help address the issues of old growth, which should help to reduce related appeals.

The Forest Service is currently undertaking a variety of efforts that may indirectly reduce timber planning appeals in the future, including—

- **1990 Resources Planning Act Program.** The 1990 RPA Program serves as the strategic plan for the Forest Service by recommending how Forest Service programs can best meet society's resource demands and respond to key issues. The RPA Program defines the roles of the Forest Service for national forest management–multiple-use management and suggests how the agency is responding to key contemporary issues (such as clearcutting, below-cost sales, and biological diversity) that have long-term implications. The RPA Program fosters discussion on key issues and Forest Service roles with individuals and groups. This national level of public participation may indirectly influence the number of appeals.

- **Amendments or revisions of regional guides and land management plans.** Some regions and forests are starting to amend their guides and plans in accordance with NFMA implementing regulations. The amendments and revisions allow adjustments in strategic decisions in response to issues arising from forest plan implementation and monitoring and/or incorporate new data on resources. It is expected that such amendments and revisions will reduce future appeals.

- **Land Management Planning Critique.** A critique is being conducted to evaluate planning done under NFMA. The result will be a synthesis of internal and external views of planning that will characterize (1) the ideal, (2) the agency's accomplishments through its planning of the last decade, and (3) the challenges for the future. The expectation is that the critique will provide suggestions for improving the planning process, which may

indirectly reduce the number of appeals on future Forest Service decisions by improving the quality of plans. This report is part of the Critique.

- **All Resources Reporting Project.** As an extension of TSPIRS, this project applies cost-accounting principles to a broad range of natural resource management activities; it will result in a better information system to track costs, benefits, and socioeconomic effects for all resources. Improved tracking will provide a systematic, internally consistent, quantitative data base to show the benefits and costs of multiple-use management. This reporting system also will help to establish facts more objectively in cases of conflict and more fully document the balancing of national forest use.

- **Spotted owl environmental impact statement.** An environmental impact statement was recently completed in the Pacific Northwest Region, making a strategic decision about how best to deal with the issue. It also represented an assessment of a course of action that balances the protection of the owl and an ongoing supply of timber from public lands for the next 5 years. The planning and analysis that preceded the decision serves as a solid base of information for dealing with the current situation. It is assumed that this document has prevented more appeals and lawsuits than it has generated or that it has been helpful in managing the current situation.

- **National Biological Diversity Task Force.** There have been numerous forest plan appeals on issues of biological diversity. The RPA Program identifies this as a contemporary issue. This task force, sponsored in part by the Forest Service, includes a broad range of interested parties who are developing a common understanding of what constitutes biological diversity and how it can be measured. This effort is being supported by the Keystone Institute in Colorado. The result will be a clearer conceptual understanding of diversity by all parties and will serve as a means of sharing concerns, perspectives, and knowledge of conservation approaches. Again, it is expected that by fostering dialog on this issue and its complexities, the appeals related to this issue, which often impact timber activities, will be reduced.

The Forest Service is conducting a variety of short-term and long-term efforts for responding to timber planning conflicts and appeals. The agency needs to continue with its short-term efforts while a more effective long-term strategy is developed.

Studying the disruption of timber supply makes it clear that there are no quick fixes. We must understand that any short-term efforts taken to respond to the growing problem must address the causes and not the symptoms to be effective. Short-term efforts that fix the symptoms or deprive the public of an opportunity to influence outcomes often lead to unpredictable disruptions in unexpected areas.

In terms of a long-term strategy, the Forest Service must seek ways of reducing conflicts or of resolving them more quickly among the conflicting interests.

There must be more energy spent on finding ways to reach a common understanding or consensus on how to conduct timber planning activities on the national forests. The solutions must address and fully respond to several of the following factors to be effective:

1. ***Respond to the causes and not the symptoms.*** Address the underlying causes of the conflicts—disagreements among a wide range of individuals and special interest groups over what will best meet the needs of the American people and the associated conflicting demands for goods, services, and amenities—rather than the symptoms.

2. ***Recognize the multiplicity of avenues for resolving conflicts.*** There is a multiplicity of avenues or opportunities that individuals and special interest groups have for influencing outcomes outside of the systematic planning and decisionmaking process. In searching for a long-term strategy, recognize that any forum for solution-finding within the Forest Service processes must provide outcomes to various publics that are at least as satisfactory as outcomes derived from forums outside the Forest Service process.

3. ***Institutionalize a conflict resolution process.*** Existing conflicts will continue for the foreseeable future. Therefore, any long-term strategy or solution must become institutionalized. Conflict management needs to become an explicit part of program planning, budgeting, resource planning and decisionmaking, and project scheduling and implementation. Institutionalizing conflict management should include incorporating regular opportunities for the public to influence outcomes and insulating other activities from disruption, to ensure a steady flow of goods, services, and amenities.

4. ***Management flexibility.*** A long-term strategy must allow for longer lead times for planning and decisionmaking. At the same time, ways must be found to ensure that individual steps in the process are completed efficiently. The scheduling of projects will require more flexibility in the thinking of managers. Most importantly, existing conflict must be embraced and used as a catalyst for making strategic decisions that are more commensurate with the changing values and needs of the public.

Options for Action

The problem is complex and, hence, cannot be easily solved through a single management action, but must incorporate a set of actions. The purpose of this section is not to outline any preferred set of actions or strategy, but to provide ideas for possible courses of action. The ideas are organized under several different categories and include both short-term and long-term actions.

Agency Direction and Policy

Actions under this category would involve a review of laws and Federal regulations for clarifying agency policy and direction related to conflict resolution and appeals procedures:

1. Review agency appeal regulations (36 CFR 217) again and make changes necessary to aid in more effectively reducing the number of appeals.

2. Strengthen and clarify agency policies to foster constructive dialog between the Forest Service and individuals and groups for resolving conflicts.

3. Clarify Forest Service direction on the management and control of issues related to timber activities. The direction might provide information to line officers about agency opportunities to influence conflict resolution once the issue is in judicial, legislative, or other political arenas.

Administrative Actions

Actions under this category would involve a review of agency management actions that would resolve appeals more quickly and effectively:

1. Strengthen the Forest Service commitment to responding to the appeals work load in a more timely manner. This may include increasing the work force and reorganizing duties and responsibilities among staffs.

2. Seek additional special funds from Congress to better fund the management activities for processing appeals.

3. Better communicate to our publics the purpose and importance of the national forests in meeting our nation's needs.

Environmental Education

Actions under this category would provide the agency and the public with more informative and educational material on timber planning activities:

1. Develop tools to help display the integrated nature of resource actions that show the benefits of vegetative manipulations.

2. Develop the philosophy, internally, that timber harvest is only one of the tools for overall landscape management to achieve long-term desired conditions outlined in the forest plans.

3. Develop materials that discuss the benefits and limitations of various harvest methods.

Further Studies

Actions under this category would involve further study and research for formulating a long-term solution to the problem:

1. Further investigate the root causes for appeals to better understand how to solve conflicts over timber planning activities more rapidly and effectively.

2. Investigate legislative options for resolving the inherent conflicts and disruptions associated with making decisions that allocate scarce natural resources among competing needs.

3. Develop a conflict resolution process that could be institutionalized within the agency planning and decisionmaking processes for timber activities.

4. Investigate how an "environment of conflict" can be transformed into an "opportunity for consensus" to better understand how consensus or reasonable agreement can be reached.

5. Investigate whether the goals of various laws and Forest Service policies affecting timber management activities are in conflict with multiple-use management.

Policy Options

Actions under this category include options that are outside the range of agency discretion:

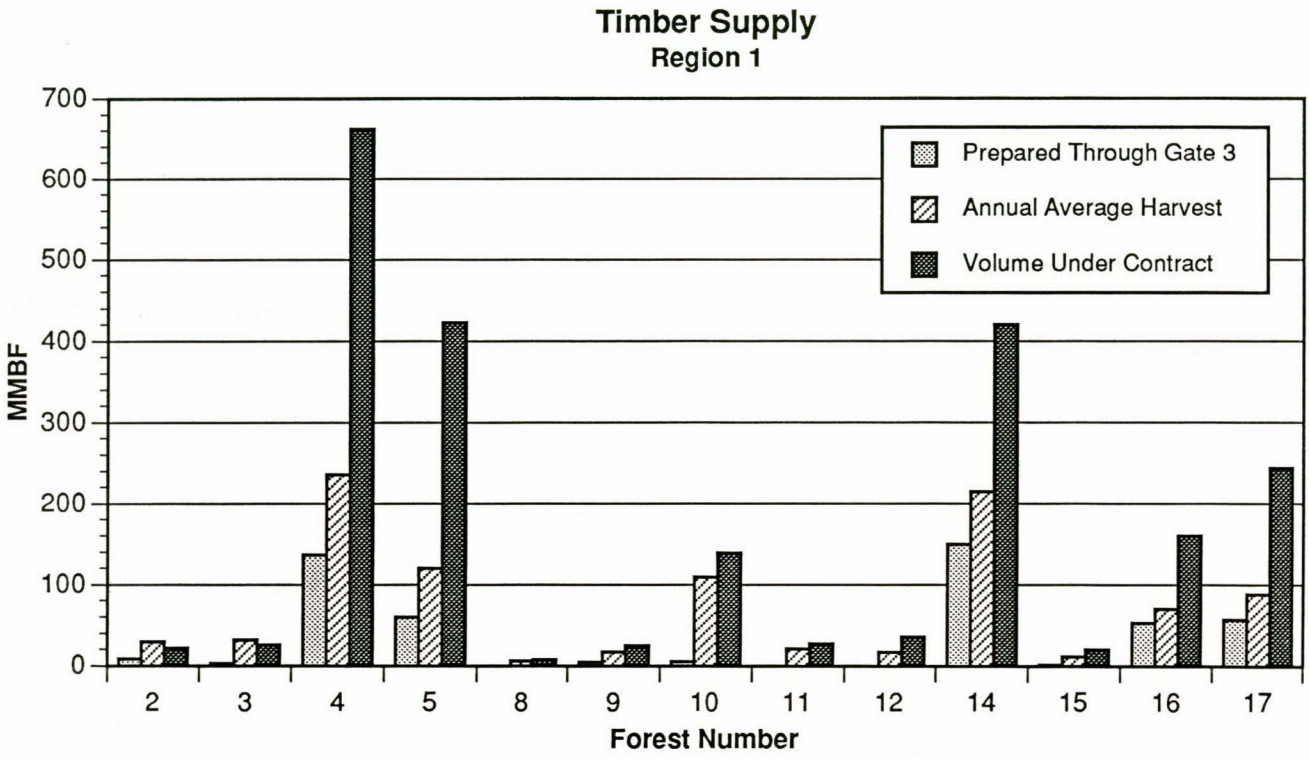
1. Congressional appropriations—targets, funding, and special language—that recognize the impacts on conflicts and seek to reduce conflict.

2. Congressional appropriations that are better linked to congressionally mandated strategic decisions, such as RPA and land management plans.

3. Systematic reductions of positive incentives for disruptive actions by special interest groups in all branches of the Government.

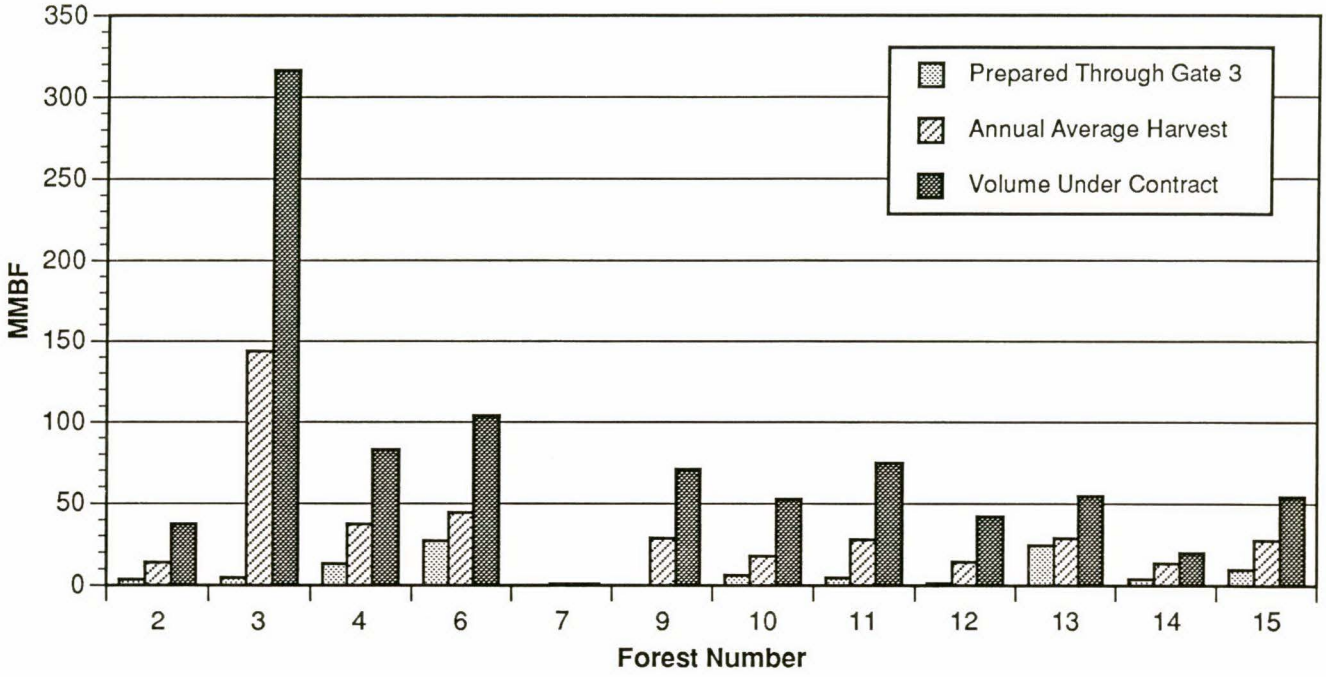
4. Systematic encouragement of individuals and groups with competing interests to work together to find solutions to underlying problems from all three branches of the Government.

Appendix A
Graphic Summary of National and Regional Timber Sales Program Data



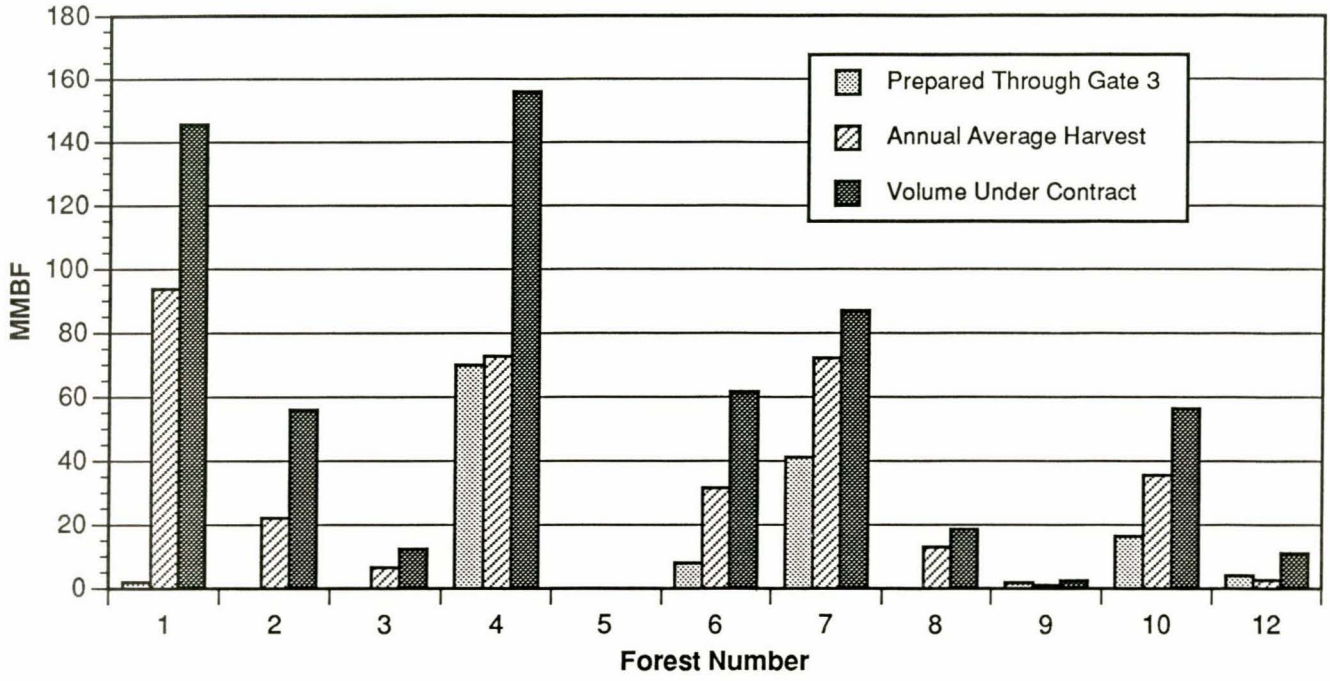
2 – Beaverhead
3 – Bitterroot
4 – Idaho Panhandle
5 – Clearwater
8 – Custer
9 – Deerlodge
10 – Flathead
11 – Gallatin
12 – Helena
14 – Kootenai
15 – Lewis & Clark
16 – Lolo
17 – NezPerce

Timber Supply
Region 2

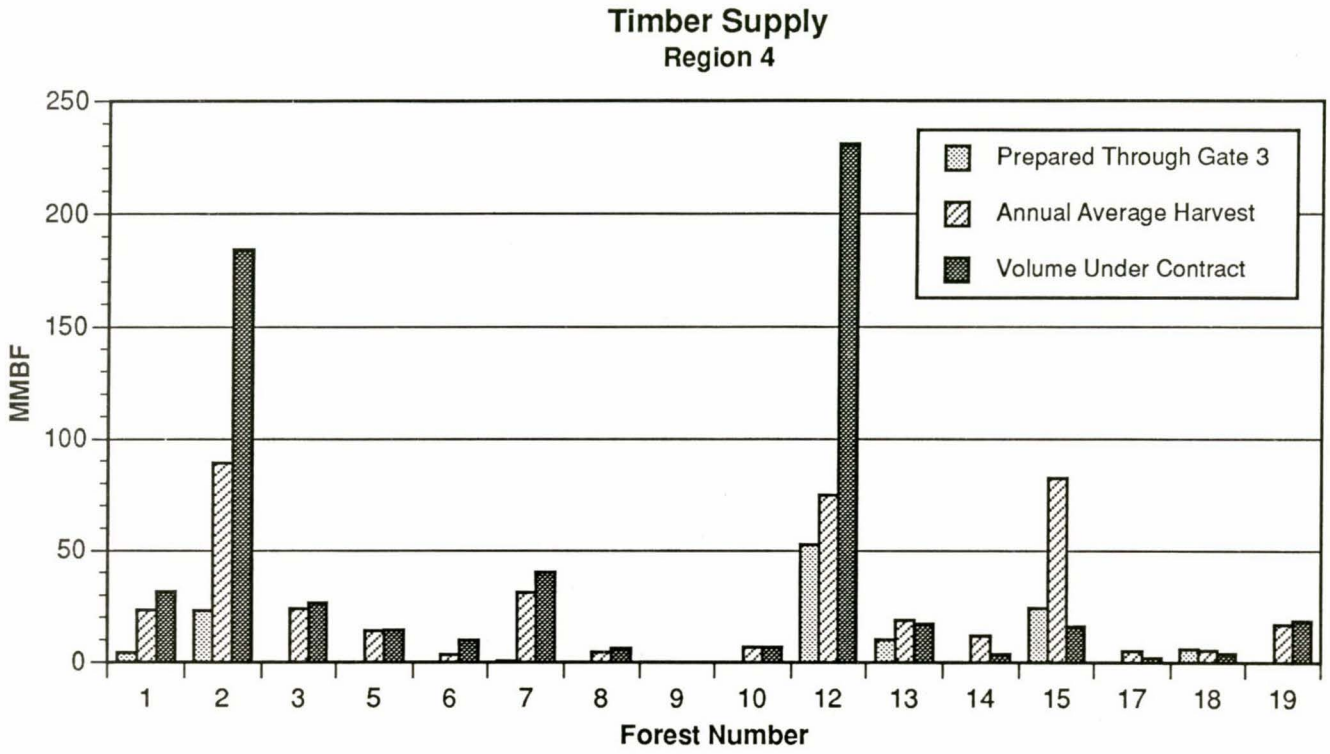


2 – Bighorn
3 – Black Hills
4 – Grand Mesa, Uncompahgre, and Gunnison
6 – Medicine Bow
7 – Nebraska
9 – Rio Grande
10 – Arapaho and Roosevelt
11 – Routt
12 – Pike and San Isabel
13 – San Juan
14 – Shoshone
15 – White River

Timber Supply
Region 3

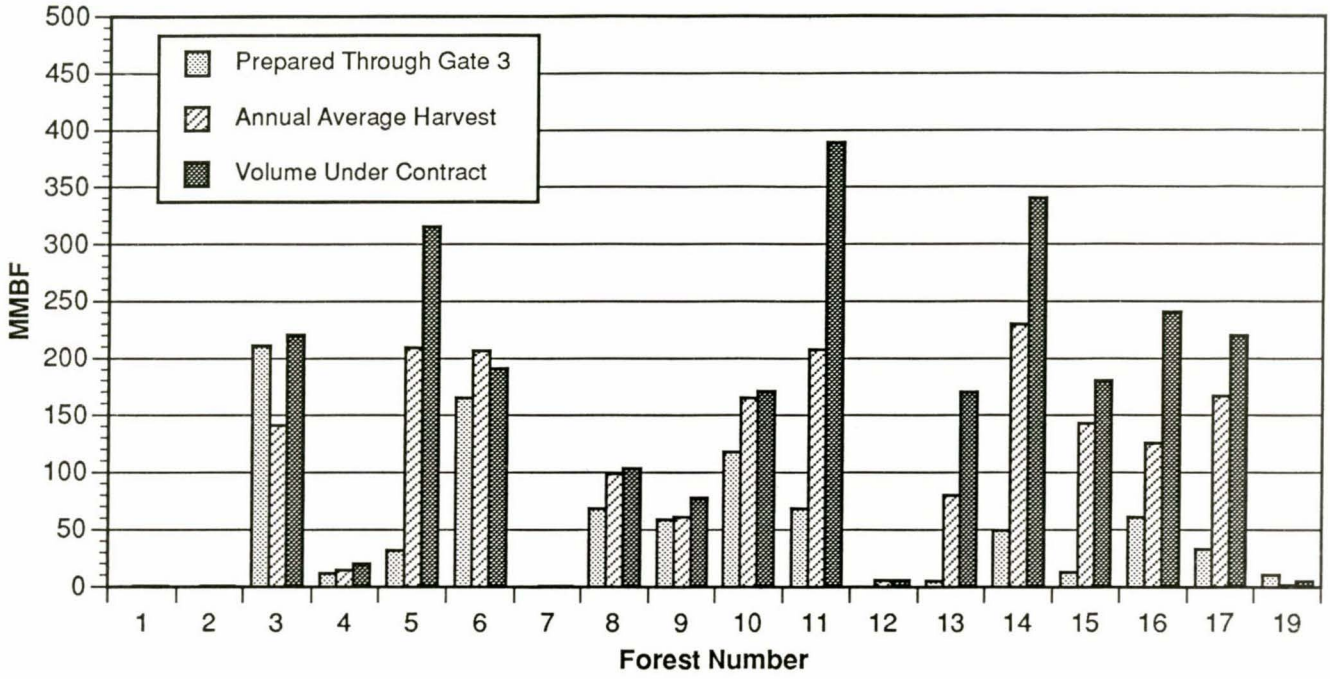


1 – Apache-Sitgreaves
2 – Carson
3 – Cibola
4 – Coconino
5 – Coronado
6 – Gila
7 – Kaibab
8 – Lincoln
9 – Prescott
10 – Sante Fe
11 – Tonto

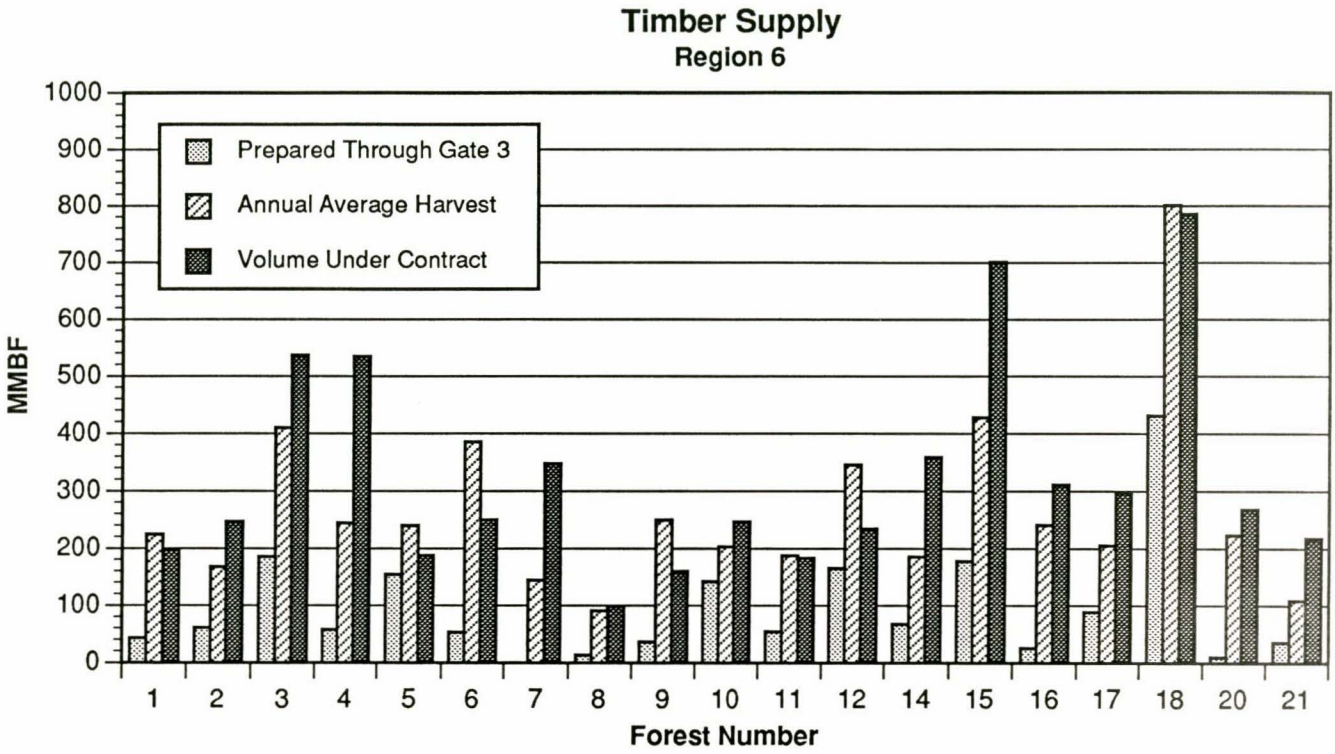


1 – Ashley
2 – Boise
3 – Bridger-Teton
5 – Caribou
6 – Challis
7 – Dixie
8 – Fishlake
9 – Humboldt
10 – Manti-LaSal
12 – Payette
13 – Salmon
14 – Sawtooth
15 – Targhee
17 – Toiyabe
18 – Uinta
19 – Wasatch-Cache

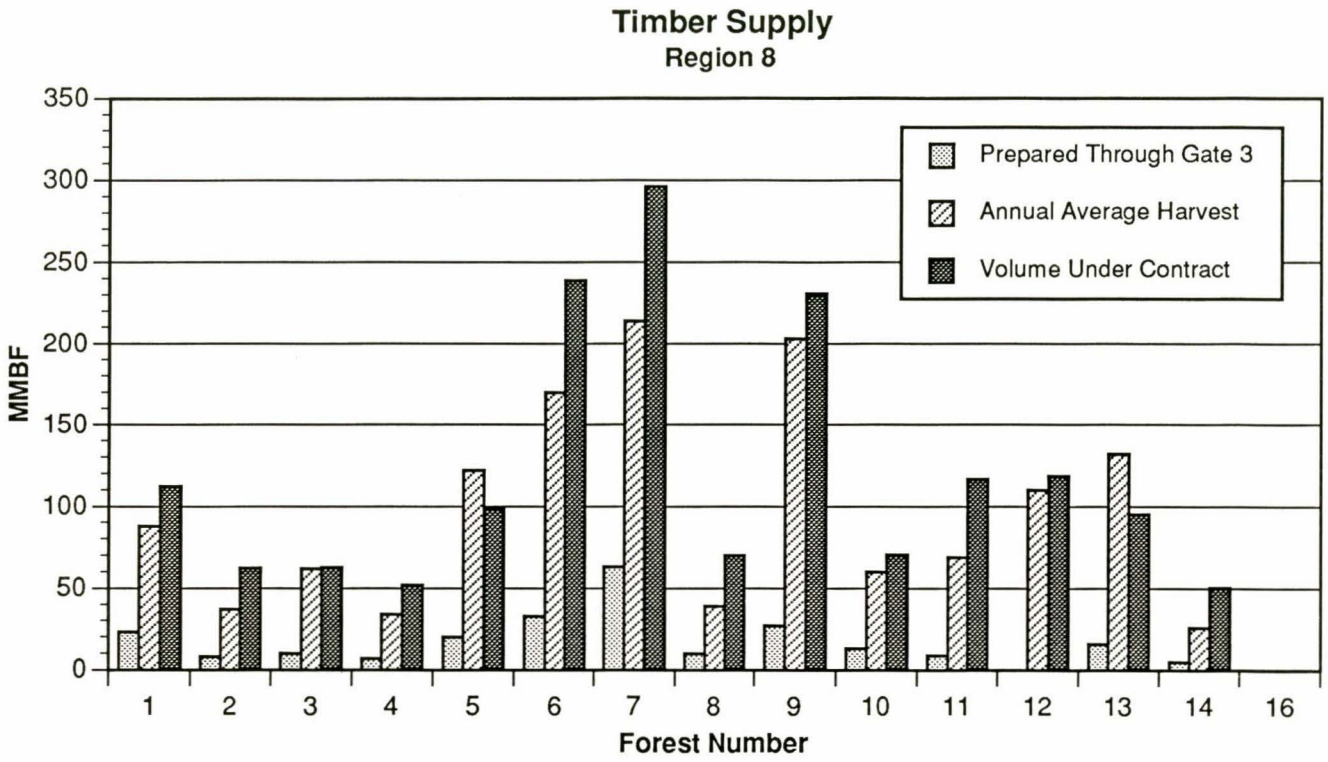
Timber Supply
Region 5



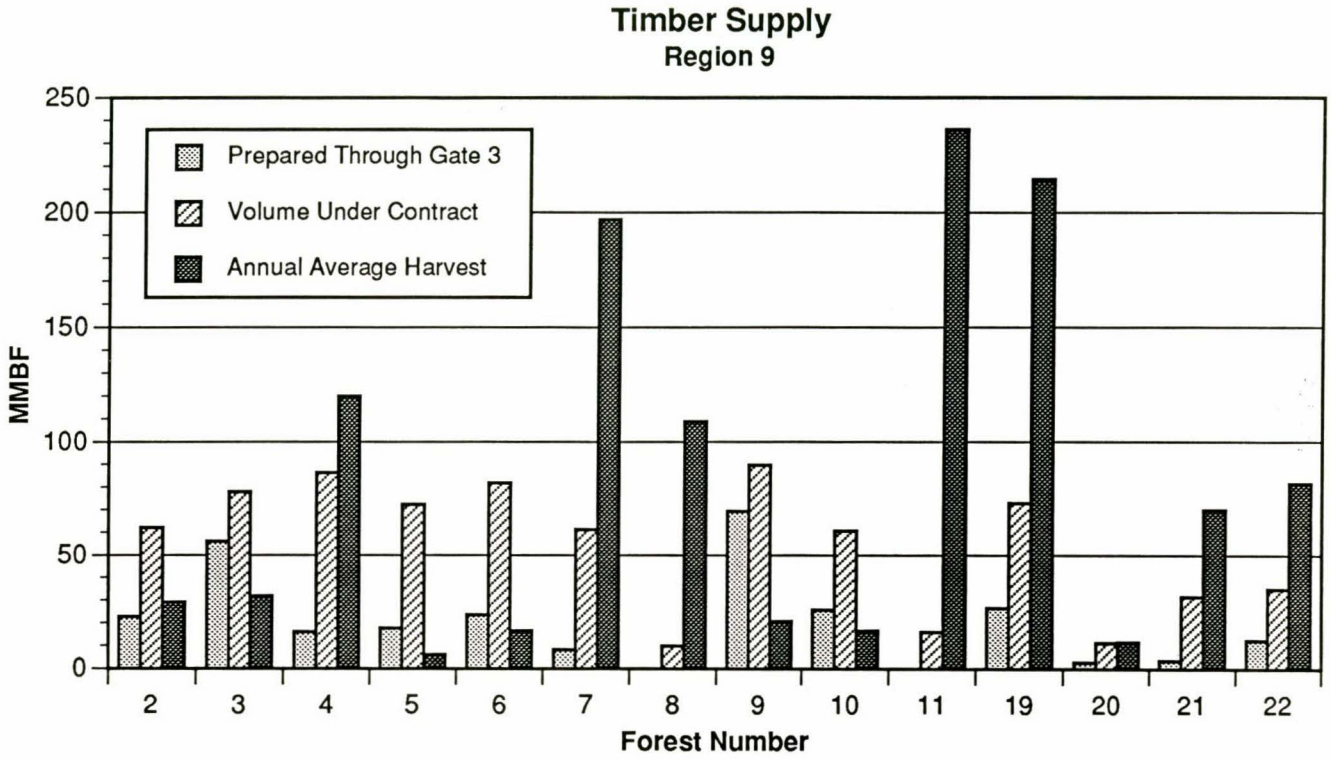
1 – Angeles
2 – Cleveland
3 – Eldorado
4 – Inyo
5 – Klamath
6 – Lassen
7 – Los Padres
8 – Mendocino
9 – Modoc
10 – Six Rivers
11 – Plumas
12 – San Bernardino
13 – Sequoia
14 – Shasta-Trinity
15 – Sierra
16 – Stanislaus
17 – Tahoe
19 – Lake Tahoe Basin



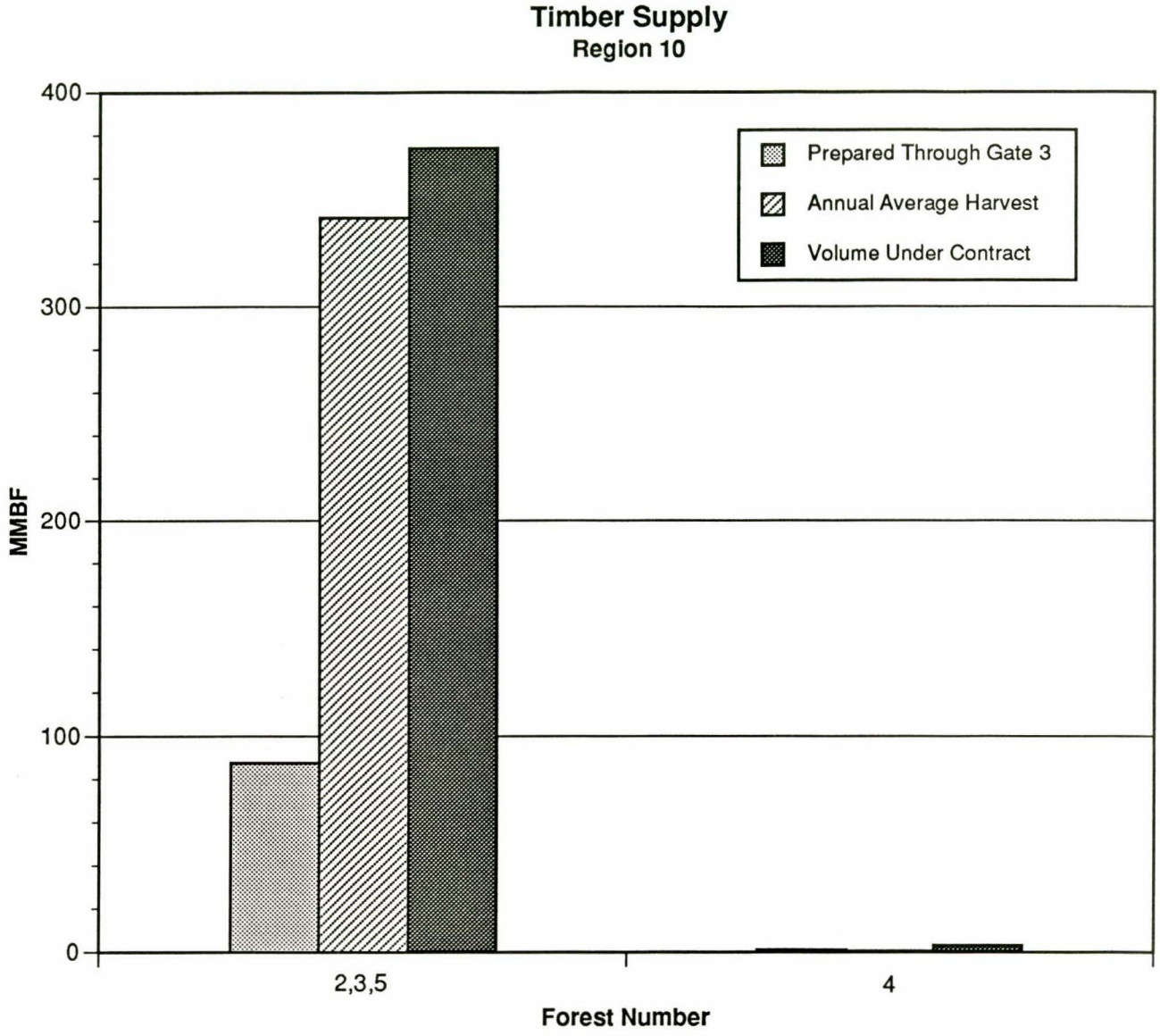
1 – Deschutes
2 – Fremont
3 – Gifford Pinchot
4 – Malheur
5 – Mount Baker-Snoqualmie
6 – Mount Hood
7 – Ochoco
8 – Okanogan
9 – Olympic
10 – Rogue River
11 – Siskiyou
12 – Siuslaw
14 – Umatilla
15 – Umpqua
16 – Wallow-Whitman
17 – Wenatchee
18 – Willamette
20 – Winema
21 – Colville



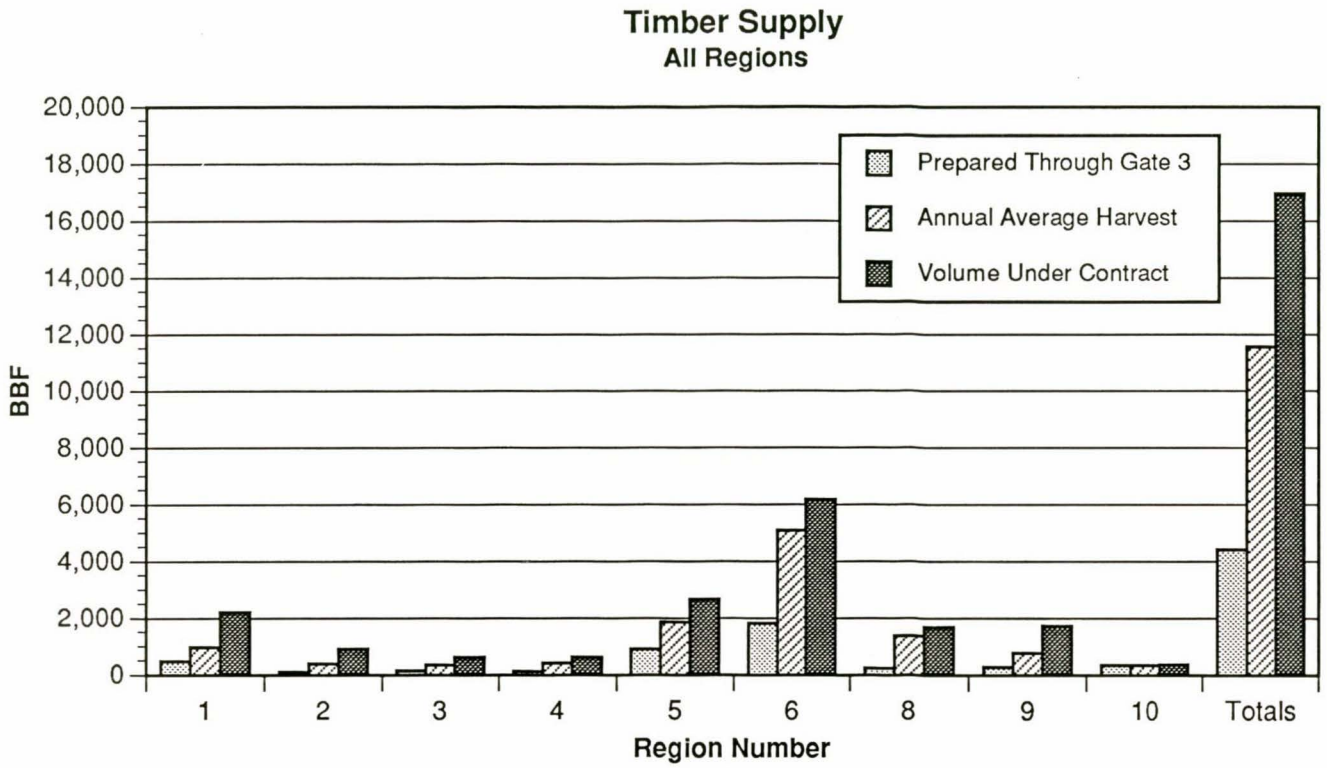
1 – NF in Alabama
2 – Daniel Boone
3 – Chattahoochee-Oconee
4 – Cherokee
5 – NF in Florida
6 – Kisatchie
7 – NF in Mississippi
8 – George Washington
9 – Ouachita
10 – Ozark-St. Francis
11 – NF in North Carolina
12 – Francis Marion-Sumter
13 – NF in Texas
14 – Jefferson
16 – Caribbean



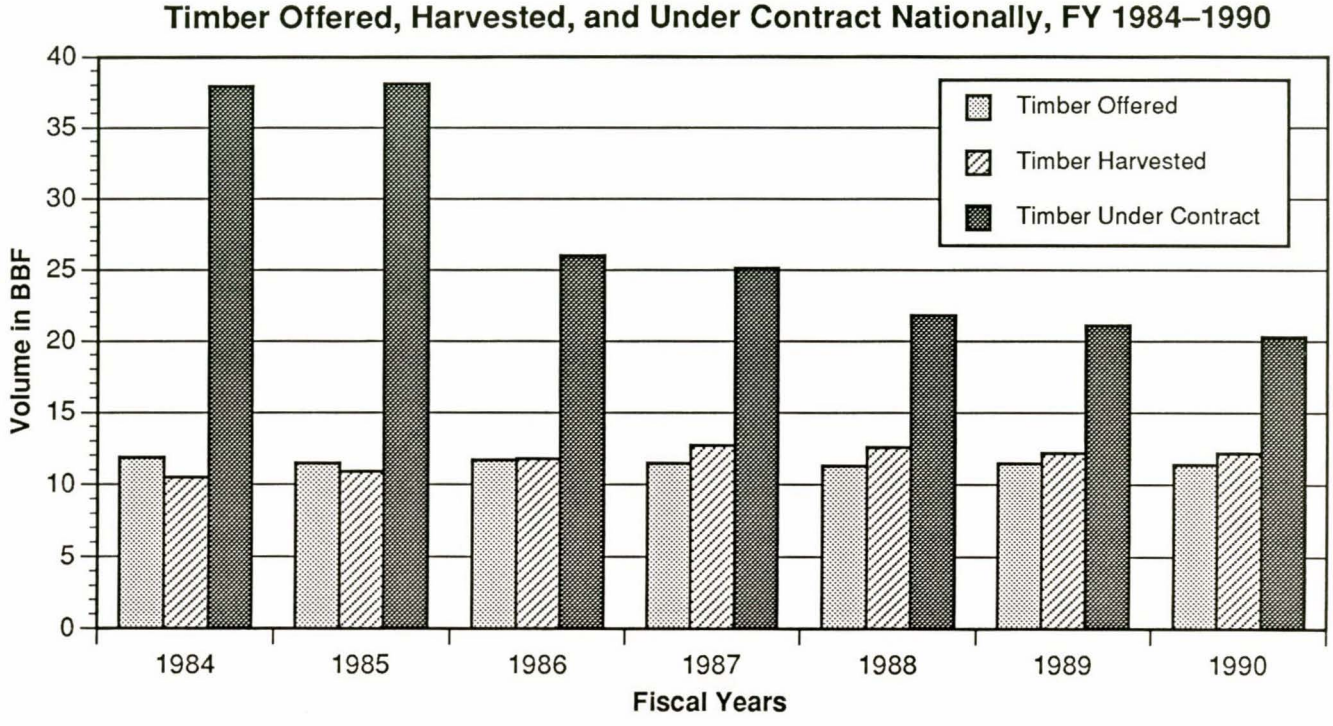
2 – Chequamegon
3 – Chippewa
4 – Huron-Manistee
5 – Mark Twain
6 – Nicolet
7 – Ottawa
8 – Shawnee
9 – Superior
10 – Hiawatha
11 – Wayne-Hoosier
19 – Allegheny
20 – Green Mountain
21 – Monongahela
22 – White Mountain



2 – Tongass-Sitkine
3 – Tongass-Chatham
4 – Chugach
5 – Tongass-Ketchikan


Timber Supply
All Regions
20,000
18,000
16,000
14,000
12,000
10,000
8,000
6,000
4,000
2,000
0
BBF
Prepared Through Gate 3
Annual Average Harvest
Volume Under Contract
1
2
3
4
5
6
8
9
10
Totals
Region Number

Appendix B
National Comparison of Timber Harvested, Offered, and Under Contract



BBF = Billion Board Feet

Timber Supply

National Forests	*Ratio of Volume Under Contract to Annual Mill Capacity*	*Total Volume Under Contract*
Targhee (9)	Less than 1.0	640 MMBF
Sawtooth (4)		
Wayne-Hoosier (9)		
Olympic (6)		
Mount Hood (6)		
Siuslaw (6)		
National Forests in Texas (8)		
Beaverhead (1)		
Mount Baker-Snoqualmie (6)		
Bitterroot (1)		
National Forests in Florida (8)		
Deschutes (6)		
Mark Twain (9)		
Salmon (4)		
Lassen (5)		
Siskiyou (6)		
Willamette (6)		
Chattahoochee-Oconee (8)	1.0 to 2.0	6.4 BBF
Caribou (4)		
Six Rivers (5)		
Mendocino (5)		
Francis Marion-Sumter (8)		
Okanogan (6)		
Bridger-Teton (4)		
Wasatch-Cache (4)		
Ouachita (8)		
Ozark-St. Francis (8)		
Custer (1)		
Winema (6)		
Kaibab (3)		
Rogue River (6)		
Sierra (5)		
Flathead (1)		
Modoc (5)		
National Forests in Alabama (8)		
Dixie (4)		
Wallowa-Whitman (6)		
Gifford Pinchot (6)		

National Forests	*Ratio of Volume Under Contract to Annual Mill Capacity*	*Total Volume Under Contract*
Gallatin (1)	1.0 to 2.0	6.4 BBF
Tahoe (5)		
Ashley (4)		
National Forests in Mississippi (8)		
Inyo (5)		
Kisatchie (8)		
Shoshone (2)		
Lincoln (3)		
Wenatchee (6)		
Fremont (6)		
Shasta-Trinity (5)		
Deerlodge (1)		
Klamath (5)		
Cherokee (5)		
Apache-Sitgreaves (3)		
Allegheny (9)		
Eldorado (5)		
Santa Fe (3)		
Umpqua (6)		
Daniel Boone (8)		
National Forests in North Carolina (8)		
Lewis & Clark (1)		
George Washington (8)		
Plumas (5)		
San Juan (2)		
Huron-Manistee (9)		
Stanislaus (5)		
Jefferson (8)		
Umatilla (6)		
White River (2)		
Gila (3)		
Kootenai (1)		
Colville (6)	More than 2.0	4.3 BBF
Hiawatha (9)		
Boise (4)		
Sequoia (5)		
Coconino (3)		
Helena (1)		
Malheur (6)		
Black Hills (2)		

National Forests	*Ratio of Volume Under Contract to Annual Mill Capacity*	*Total Volume Under Contract*
Grand Mesa (2)	More than 2.0	4.3 BBF
Lolo (1)		
White Mountain (9)		
Medicine Bow (2)		
Monongahela (9)		
Ochoco (6)		
Superior (9)		
Rio Grande (2)		
Nicolet (9)		
Carson (3)		
Shawnee (9)		
Routt (2)		
Bighorn (2)		
Chequamegon (9)		
NezPerce (1)		
Idaho Panhandle (1)		
Pike and San Isabel (2)		
Arapaho and Roosevelt (3)		
Chippewa (9)		
Payette (4)		
Ottawa (9)		
Clearwater (1)		
Green Mountain (9)		

Note: Region numbers are in parentheses. Table does not include the Tongass National Forest (Region 10) with long-term sale contracts. It also does not include the following forests that have an annual harvest under 5.0 MMBF: Nebraska (Region 2); Cibola, Coronado, Prescott, and Tonto (Region 3); Challis, Fishlake, Humboldt, Manti-LaSal, Toiyabe, and Uinta (Region 4); Angeles, Cleveland, Lake Tahoe Basin, Los Padres, and San Bernardino in Region 5; and Caribbean in Region 8.

Appendix C
Selling the Opal Creek Timber Sale: A Case Study in Timber Sale Preparation

by J.M. Morris, Detroit Ranger District, Willamette National Forest (August 29, 1989)

Opal Creek Timber Sale Background

To say the least, the situation in Opal Creek is complex. Yet in many ways, it reflects the issues surrounding the use of national forests in the Pacific Northwest. The Opal Creek drainage contains a large unroaded area (6,800 acres) adjacent to the Bull of the Woods Wilderness Area. It contains old-growth forest ecosystems, which are potential spotted owl habitat. It also contains productive timber-growing land. These are prime ingredients for forest management controversy.

Land Allocations—The Willamette National Forest Plan of 1977

A full understanding of the Opal Creek Timber Sale requires a brief look at the Forest Service planning process and, specifically, at the planning of the Willamette National Forest.

All National Forest System lands, including the 1.6 million acres of the Willamette National Forest, are managed under more than 135 laws, with accompanying guidelines and policies. The working end of these policies is the forest plan, a programmatic assessment of a forest's uses. The Willamette National Forest underwent its first planning cycle in the early 1970's, which produced the forest plan approved in 1977. This plan divides the forest into several planning areas, with the Detroit Ranger District making up the North Santiam Planning Unit. A new plan is now being prepared, but until it is completed, the forest will continue to follow the present plan, as directed by the National Forest Management Act (NFMA) of 1976.

In much the same way that a city establishes zones, the Willamette National Forest Plan allocates areas to different uses. The aim, of course is to avoid conflicts between incompatible uses while allowing compatible uses to enhance one another. For instance, scenic values are protected by creating scenic viewing corridors. Roadless recreation areas are established, as are areas for dispersed nonmotorized recreation. In many of these areas, timber production is subordinate to other uses. In areas designated as "general forest," however, intensive timber management predominates, which in turn provides opportunities for motorized dispersed recreation and enhances certain wildlife habitat.

Just as the forest plans currently being prepared act as "lightning rods" for controversy, the 1977 Willamette National Forest Plan took on its share of ground strikes. It considered input from the public, including concerned individuals and groups and other Federal, State, and local government agencies.

This input guaranteed a wide range of perspectives on issues, and it provided an expansive consideration of alternatives for forest management and the environmental effects of each course of action. The final decision regarding how to manage land for various purposes fell to the regional forester of the Pacific Northwest Region.

As might be expected, not all those who contributed to the plan were satisfied with its final version in 1977. The consequent administrative appeal was denied by the Chief of the Forest Service. Likewise, individual projects authorized under the forest plan have been appealed, especially projects slated for areas such as Opal Creek.

Opal Creek Timber Sale and the Forest Plan

The Opal Creek drainage was designated for multiple-use management through the Environmental Impact Statement for the Willamette National Forest Plan in 1977. Land-use allocations for the area are "general forest" and "scenic II" (partial retention). The general forest allocation allows for timber harvest and regrowth at intensive levels in all suitable areas. The scenic II allocation limits unit size and extends the rotation age of tree harvest.

After sale planning and environmental analysis that lasted from 1979 until 1981, the decision to sell the Opal Creek Timber Sale was made on April 9, 1981. The sale plan called for the building of 7.3 miles of road and the harvest of 12.4 million board feet of timber. Other values, such as water quality and wildlife habitat, were maintained within guidelines established in the forest plan and mandated by law, although the emphasis is admittedly on timber production.

Appeals

A first-level appeal of the Willamette National Forest supervisor's decision was filed in June 1981. The regional forester of the Pacific Northwest Region denied this appeal in June 1982. A second-level appeal was filed with the Chief soon after. This second-level appeal was dismissed in August 1983.

Each level of administrative appeal of the decision to implement the Opal Creek Timber Sale affirmed the correctness of the site-specific environmental analysis that took place for that sale.

The Role of the Oregon Wilderness Legislation

Although the results of these reviews in themselves suggest strong reasons for getting on with the task of developing the Opal Creek drainage, Congress passed over the area for wilderness designation when it completed its own review during the preparation of the Oregon wilderness legislation.

The first version of this legislation was introduced to the 97th Congress in December 1982, after the Opal Creek Timber Sale planning was completed. This bill, HR 7340 (introduced into the 98th Congress as HR 1149), included the Opal Creek drainage.

In order not to preclude possible wilderness designation for the area, the Opal Creek Sale and two others in the drainage were deferred. However, by the time the final bill was signed in 1984, the Opal Creek area had been specifically deleted (Senate Report 98–465). The Wilderness Act further specified that lands not included could be considered for other uses. Although this did not mean that all roadless areas not included in the legislation should be immediately developed, it did make clear that roadless areas, such as Opal Creek, should be considered for uses other than wilderness.

In addition, Senate Report 98–465 directed the Forest Service to evaluate the buildings, structures, and improvements that related to past and present mining activity in the North Santiam Mining District. The report further directed the Forest Service to determine the historic value of these improvements prior to initiating activity that might affect them. Although the Opal Creek Timber Sale did not directly affect these improvements, the Forest Service further delayed the sale until an archeologist completed the inventory and evaluation in 1985.

Spotted Owl Habitat Also Plays a Role

Action was delayed again during 1985 to assure the fullest possible range of options for the spotted owl supplemental environmental impact statement (SEIS), which will be used to guide Forest Service management of spotted owl habitat throughout the Pacific Northwest Region.

The Detroit Ranger District prepared to sell the Opal Creek Timber Sale during fiscal year 1987, after the draft SEIS was issued. This preparation included extensive supplemental environmental analysis, to ensure that the sale complied with changed direction and policy. The sale was advertised and a sell date set for August 1987.

However, the sale was dropped from the sell program on July 30, 1987, after review of a verbal agreement reached in 1985 between then-Regional Forester Jeff Sirmon and attorney Mike Axline, who was representing the National Wildlife Federation, concerning old growth and spotted owls. The 1985 agreement kept the National Wildlife Federation from challenging Forest Service management on spotted owl habitat, so long as certain sales were not sold. Unfortunately, it was unclear in 1987 whether Sirmon had agreed to hold several sales, including Opal Creek, until the draft SEIS was issued or until the final SEIS.

No written agreement was made, and no notes were taken. Axline asserted that the agreement would be in effect until the final SEIS. The three Forest Service representatives, including Sirmon, could not rebut Axline's recollection in certain terms, and so the Forest Service agreed to delay until after the final spotted owl SEIS before offering the Opal Creek Timber Sale.

The Record of Decision for the SEIS was signed by the Chief in December 1988, but the status of the Opal Creek Timber Sale in light of more recent spotted owl decisions is unclear.

A Second Appeal

The decision by the Detroit District Ranger to supplement the Opal Creek environmental assessment was challenged in August 1987. The Willamette National Forest supervisor denied the appeal in October 1987. This decision to deny was appealed to the regional forester of the Pacific Northwest Region in May 1988. This appeal is pending as of August 1989.

Other Issues

Meanwhile, proposals have come before the Oregon State legislature during its 1985 and 1987 sessions proposing the Opal Creek area as a State scenic river. In 1985, the Little North Santiam River was included in the State scenic waterway system. Opal Creek was designated a State scenic waterway for 2 years while it was studied for permanent inclusion in the system. The 1987 legislature followed a recommendation of the State parks division and did not extend the scenic waterway status to Opal Creek beyond 1987.

In 1988, Opal Creek was considered for inclusion in the Oregon Omnibus Wild and Scenic River Bill. It was added late in the process, but after considerable local opposition was deleted from the bill.

The issue was raised again during the 1989 session, but this was overshadowed by a separate proposal to include the Opal Creek area in a plan to create an "Ancient Forest State Park" on National Forest System land in the Little North Santiam River drainage. Although several hearings occurred on these proposals, no action was taken by the 1989 legislature.

Appendix D
Letter

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

APR 2 7 1989

SUBJECT: Definition and Documentation of the NF Timber Supply Problem Emerging from the Onslaught of Appeals and Court Suits on NF Plans and Timber Sales Program

TO: Dale Robertson, Chief
Forest Service

It is increasingly clear that legal challenges to national forest plans and timber sales program offerings are impacting the Forest Service ability to execute legislative directives for the preparation and execution of national forest plans as well as annual timber program targets and budgets. The basic problem appears to be deeper and more strategic than the appeals and court suits which are largely individual tactical issues. Senator McClure has recently described this problem clearly in its critical strategic dimensions.

For this reason, I am directing the Forest Service to document this problem systematically in quantitative terms for the timber plan schedule, timber sales program targets, sales offerings, actual sales and harvest and the backlog of sold but uncut timber by Region for the years 1974 to 1989. Any visible trends should be projected reasonably into the next 5 to ten years. Other components of this problem definition should identify legislation for forest planning, annual timber program targets and other resource and environmental legislation that are involved in the apparent conflicts in legislative intent and contributing to the are confounding of Forest Service capability to execute those laws consistently and effectively. It is particularly important to identify the legislative direction most responsible for the external intervention in the execution of forest plans and legislative program targets. The problem definition should also document the direct and the opportunity costs of responding to appeals and court suits as well as impacts on prices, jobs, community stability and general government effectiveness.

Please designate a Forest Service leader for this project in the next week. He should plan to work with John Fedkiw, OBPA, in shaping up the definition and documentation of the problem as directed above. Also, involve Mike Gippert, OGC on the legislative

and legal aspects which contribute to the basic sources of this problem.

I believe this issue needs to receive the attention of the highest responsible authorities on USDA and the Administration as soon as the problem can be carefully defined and documented. I am personally alerting the Secretary on this issue.

Geo. S. Dunlop

GEORGE S. DUNLOP
Assistant Secretary
Natural Resources and Environment

cc: John Evans, Deputy Assistant Secretary, NRE
John Fedkiw, OPBA
Michael Gippert, OGC

OSEC:JSpace:jad:4/27/89

Wise Use of
Your Natural
Resources